

1976
REVISED CODE
of
WASHINGTON



Volume 9
1977 Supplement

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**1976
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WASHINGTON**

1977 SUPPLEMENT

I. SCOPE OF SUPPLEMENT

This volume supplements the 1976 edition of The Revised Code of Washington by adding thereto the following materials:

1. All laws of a general and permanent nature enacted in the 1977 regular and 1st extraordinary sessions.
2. Measures adopted at the 1976 and 1977 state general elections.
3. Rules of Court promulgated prior to July 13, 1977.
4. Appropriate supplementation of the various tables and the general index.

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CERTIFICATE

This supplement, 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**

THE CONSTITUTION OF THE STATE OF WASHINGTON

Amendment No.

- 64 Art. 7 § 2 Limitation on Levies.
- 65 Art. 4 § 6 Jurisdiction of Superior Courts.
Art. 4 § 10 Justices of the Peace.
- 66 Art. 12 § 18 Rates for Transportation.
- 67 Art. 12 § 15 Prohibition Against Discriminating Charges.
- 68 Art. 12 § 14 Prohibition Against Combinations by Carriers. (Repealed.)

THE CONSTITUTION OF THE STATE OF WASHINGTON

AMENDMENT 64

Art. 7 § 2 LIMITATION ON LEVIES. Except as hereinafter provided and notwithstanding any other provision of this Constitution, the aggregate of all tax levies upon real and personal property by the state and all taxing districts now existing or hereafter created, shall not in any year exceed one per centum of the true and fair value of such property in money: *Provided, however,* That nothing herein shall prevent levies at the rates now provided by law by or for any port or public utility district. The term "taxing district" for the purposes of this section shall mean any political subdivision, municipal corporation, district, or other governmental agency authorized by law to levy, or have levied for it, ad valorem taxes on property, other than a port or public utility district. Such aggregate limitation or any specific limitation imposed by law in conformity therewith may be exceeded only

(a) By any taxing district when specifically authorized so to do by a majority of at least three-fifths of the electors thereof voting on the proposition to levy such additional tax submitted not more than twelve months prior to the date on which the proposed levy is to be made and not oftener than twice in such twelve month period, either at a special election or at the regular election of such taxing district, at which election the number of persons voting "yes" on the proposition shall constitute three-fifths of a number equal to forty per centum of the total votes cast in such taxing district at the last preceding general election when the number of electors voting on the proposition does not exceed forty per centum of the total votes cast in such taxing district in the last preceding general election; or by a majority of at least three-fifths of the electors thereof voting on the proposition to levy when the number of electors voting on the proposition exceeds forty percentum of the total votes cast in such taxing district in the last preceding general election: *Provided,* That notwithstanding any other provision of this Constitution, any proposition pursuant to this subsection to levy additional tax for the support of the common schools may provide such support for a two year period;

(b) By any taxing district otherwise authorized by law to issue general obligation bonds for capital purposes, for the sole purpose of making the required payments of principal and interest on general obligation bonds issued solely for capital purposes, other than the replacement of equipment, when authorized so to do by majority of at least three-fifths of the electors thereof voting on the proposition to issue such bonds and to pay the principal and interest thereon by an annual tax levy in excess of the limitation herein provided during the term of such bonds, submitted not oftener than twice in any calendar year, at an election held in the manner provided by law for bond elections in such taxing district, at which election the total number of persons voting on the proposition shall constitute not less than forty per centum of the total number of votes cast in such taxing district at the last preceding general election: *Provided,* That any such taxing district shall have the right by vote of its governing body to refund any general obligation bonds of said district issued for capital purposes only, and to provide for the interest thereon and amortization thereof by annual levies in excess of the tax limitation provided for herein, *And provided further,* That the provisions of this section shall also be subject to the limitations contained in Article VIII, Section 6, of this Constitution;

(c) By the state or any taxing district for the purpose of paying the principal or interest on general obligation bonds outstanding on December 6, 1934; or for the purpose of preventing the impairment of the obligation of a contract when ordered so to do by a court of last resort. [1975-'76 Senate Joint Resolution No. 137. Approved November 2, 1976.]

Prior amendments of Art. 7 § 2, see Amendments 17, 55, and 59.

AMENDMENT 65

Art. 4 § 6 JURISDICTION OF SUPERIOR COURTS. The superior court shall have original jurisdiction in all cases in equity and in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand or the value of the property in controversy amounts to three thousand dollars or as otherwise determined by law, or a lesser sum in excess of the jurisdiction granted to justices of the peace and other inferior courts, and in all criminal cases amounting to felony, and in all cases of misdemeanor not otherwise provided for by law; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate, of divorce, and for annulment of marriage; and for such special cases and proceedings as are not otherwise provided for. The superior court shall also have original jurisdiction in all cases and of all proceedings in which jurisdiction shall not have been by law vested exclusively in some other court; and said court

The Constitution of the State of Washington

shall have the power of naturalization and to issue papers therefor. They shall have such appellate jurisdiction in cases arising in justices' and other inferior courts in their respective counties as may be prescribed by law. They shall always be open, except on nonjudicial days, and their process shall extend to all parts of the state. Said courts and their judges shall have power to issue writs of mandamus, quo warranto, review, certiorari, prohibition, and writs of habeas corpus, on petition by or on behalf of any person in actual custody in their respective counties. Injunctions and writs of prohibition and of habeas corpus may be issued and served on legal holidays and nonjudicial days.

AMENDMENT 68

Art. 12 § 14 PROHIBITION AGAINST COMBINATIONS BY CARRIERS. Repealed by Amendment 68. [1977 House Joint Resolution No. 57. Approved November 8, 1977.]

Art. 4 § 10 JUSTICES OF THE PEACE. The legislature shall determine the number of justices of the peace to be elected and shall prescribe by law the powers, duties and jurisdiction of justices of the peace: *Provided*, That such jurisdiction granted by the legislature shall not trench upon the jurisdiction of superior or other courts of record, except that justices of the peace may be made police justices of incorporated cities and towns. Justices of the peace shall have original jurisdiction in cases where the demand or value of the property in controversy is less than three hundred dollars or such greater sum, not to exceed three thousand dollars or as otherwise determined by law, as shall be prescribed by the legislature. In incorporated cities or towns having more than five thousand inhabitants, the justices of the peace shall receive such salary as may be provided by law, and shall receive no fees for their own use. [1977 Senate Joint Resolution No. 113. Approved November 8, 1977.]

Prior amendment of Art. 4 § 6 and § 10, see Amendment 28.

AMENDMENT 66

Art. 12 § 18 RATES FOR TRANSPORTATION. The legislature may pass laws establishing reasonable rates of charges for the transportation of passengers and freight, and to correct abuses and prevent discrimination and extortion in the rates of freight and passenger tariffs on the different railroads and other common carriers in the state, and shall enforce such laws by adequate penalties. A railroad and transportation commission may be established and its powers and duties fully defined by law. [1977 House Joint Resolution No. 55. Approved November 8, 1977.]

ERRATUM

(Affix over Amendment 67 at page A2—1977 RCW Supplement)

ARTICLE 12, SECTION 15. See the 1976 Revised Code of Washington, Volume 0, page 33 for the correct text of Article 12, section 15 of the Washington Constitution. House Joint Resolution No. 56 of the 1977 legislative session was rejected by the voters November 8, 1977, and the appearance of Article 12, section 15 in this supplement is therefore in error.

The repeal of Article 12, section 14 by 1977 House Joint Resolution No. 57, approved by the voters November 8, 1977, will be redesignated as Amendment 67 in subsequent reprintings of the Revised Code of Washington.

Office of the Code Reviser
[1977 RCW Supp—page A-2]

Olympia, Washington

RULES OF COURT

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- 3 Filings—Time extended (Adopted: Effective February 3, 1977.)
- 4 Law librarian (Adopted: Effective February 3, 1977.)
- 5 Audits (Adopted: Effective February 8, 1977.)

Code of Professional Responsibility (CPR)

CANON 8 A lawyer should assist in improving the legal system

- DR 8-103 Lawyer candidate for judicial office (Adopted: Effective July 1, 1972)

Admission to Practice Rules (APR)

Rule

- 7 Practice by members of bar from other jurisdictions prohibited—Exception (Amended: Effective July 1, 1977.)
- 9 Legal interns (Amended: Effective December 31, 1976.)
- 9(E)(1) Term of limited license (Extension: Effective December 21, 1977.)
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- 16.11 Personal restraint petition—Consideration of petition (Amended: Effective January 1, 1977.)
- 16.12 Personal restraint petition—Reference hearing (Amended: Effective January 1, 1977.)
- 16.14 Personal restraint petition—Appellate review (Amended: Effective January 1, 1977.)
- 16.15 Personal restraint petition—Supplemental provisions (Amended: Effective January 1, 1977.)

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- 18.11 Civil appeal statement and settlement conference in court of appeals (Rescinded: Effective February 28, 1977.) (Cf. RAP 5.5)

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Part I RULES OF GENERAL APPLICATION

GENERAL RULES (GR)

Rule

- 2 Holidays
- 3 Filing—Time extended
- 4 Law librarian
- 5 Audits

Rule 2 Holidays (a) In event any legal holiday falls on Saturday all the Courts of the State shall be closed on the preceding day (Friday).

(b) In event any legal holiday falls on Sunday all the Courts of the State shall be closed on the following day (Monday).

(c) All Clerk's offices shall likewise be closed on such days. [Adopted February 3, 1977, effective February 3, 1977.]

Rule 3 Filings—Time Extended In event the last day for filing any document or for doing any other thing or matter in the office of any Clerk of any court shall

fall upon a day when such Clerk's office shall be closed according to Rule 2 then and in that event the time for such filing or other thing or matter shall be extended until the end of the next business day upon which such office shall be open for business. [Adopted February 3, 1977, effective February 3, 1977.]

Rule 4 Law librarian The time and manner of observing holidays by the Law Library on days herein designated and on days immediately before and/or after such days shall be subject to the direction of the State Law Librarian. [Adopted February 3, 1977, effective February 3, 1977.]

Rule 5 Audits The judicial branch of the government of the State of Washington is a separate and equal division of said state government. The funds for operation of the judicial branch and many funds which pass through the Courts are public funds of the State and/or of various subdivisions, agencies or municipalities of the State. Every Court in this State must, upon demand, submit all financial records of such Court to the State Auditor or his agents for inspection and audit, as to all funds received, disbursed or in possession of said Court. [Adopted February 8, 1977, effective February 8, 1977.]

CODE OF PROFESSIONAL RESPONSIBILITY (CPR)

CANON 8. A lawyer should assist in improving the legal system.

DR 8-103 Lawyer candidate for judicial office.

CANON 8

A LAWYER SHOULD ASSIST IN IMPROVING THE LEGAL SYSTEM

Dr 8-103 Lawyer Candidate Judicial Office.

(A) A lawyer who is a candidate for judicial office shall comply with the applicable provisions of Canon 7 of the Code of Judicial Conduct. [Adopted April 5, 1977, effective July 1, 1977.]

ADMISSION TO PRACTICE RULES (APR)

Rule

- 7 Practice by members of bar from other jurisdictions prohibited—Exception.
- 9 Legal interns.
- 11 Continuing legal education.

Rule 7 Practice by members of bar from other jurisdictions prohibited—Exception.

A. In General.

(1) No person shall appear as attorney or counsel in any of the courts of this state, unless he is an active member of the state bar: Provided, that a member in good standing of the bar of any other state who is a resident of and who maintains a practice in such other state may, with permission of the court, appear as counsel in the trial of an action or proceeding in association only

with an active member of the state bar, who shall be the attorney of record therein and responsible for the conduct thereof and shall be present at all court proceedings.

(2) Application to appear as such counsel shall be made to the court before whom the action or proceeding in which it is desired to appear as counsel is pending. The application shall be heard by the court after such notice to the adverse parties as the court shall direct; and an order granting or rejecting the application made, and if rejected, the court shall state the reasons therefor.

(3) No member of the state bar shall lend his name for the purpose of, or in any way assist in, avoiding the effect of this rule.

B. Indigent Representation.

(1) A member in good standing of the bar of another state who is eligible to take the bar examination in this state (herein referred to as the Applicant), while rendering service in either a Bar Association or governmentally sponsored legal services organization or in a public defender's office or similar program providing legal services to indigents and solely in that capacity, may, upon application and approval, practice law and appear as counsel before the courts of this state in any matter, litigation, or administrative proceeding, subject to the following conditions and limitations:

(i) In any such matter, litigation, or administrative proceeding, an active member of the Washington State Bar Association must be associated with the Applicant; shall be counsel of record in all litigation and administrative proceedings; and shall be the person responsible for the conduct of the matter, litigation, or administrative proceeding.

(ii) The Applicant shall apply to sit for and shall take the first bar examination which is given more than 90 days after the date of his or her admission to practice under this Rule. Failure to do so shall automatically revoke the Applicant's right to practice under this Rule.

(iii) If the Applicant does not pass the bar examination, such Applicant's right to practice under this Rule shall terminate on the date that the bar examination results are published.

(iv) If the Applicant passes the bar examination, he or she shall, at the earliest practicable date, apply for active membership in the Washington State Bar Association and shall become an active member therein at the first opportunity. Either the failure to apply or the failure to become an active member for any reason shall terminate the Applicant's right to practice under this Rule.

(v) The Supreme Court may terminate the Applicant's right to practice under this Rule at any time, with or without cause.

(vi) The Applicant's right to practice under this Rule shall, unless sooner terminated pursuant to the other provisions of this Rule, terminate in any event 1 year after the original date of his or her admission to practice.

(2) Application to practice under this Rule shall be made to the Supreme Court of the State of Washington, and the Applicant shall be subject to the Discipline

Rules for Attorneys and the Code of Professional Responsibility. [Amended March 10, 1977, effective July 1, 1977; amended March 31, 1975, effective July 1, 1975; amended November 5, 1975, effective January 1, 1974; amended January 29, 1965, effective February 12, 1965. Prior: Adopted December 2, 1955, effective December 15, 1955.]

Rule 9 Legal interns.

A. Admission to Limited Practice as a Legal Intern.

Notwithstanding any provision of any other rule to the contrary, qualified law students, registered law clerks and graduates of approved law schools, upon application and approval in accordance with the requirements set forth in Rule 9B, may be admitted to the status of "legal intern" and may be granted a limited license to engage in the practice of law, as hereinafter provided and not otherwise.

B. Application for Limited License as a Legal Intern—Qualifications—Procedure.

(1) *Qualifications*—The applicant when submitting an application must:

(a) Be a student duly enrolled and in good academic standing at an approved law school with legal studies completed amounting to not less than two-thirds of a prescribed three-year course of study or five-eighths of a prescribed four-year course of study, and have the written approval of the applicant's law school dean or a person designated by such dean; or

(b) Be a registered law clerk in compliance with the provision APR 2(d) with not less than three-fourths of the prescribed four-year course of study completed, and have the written approval of his or her tutor; or

(c) Make the application before the expiration of nine (9) months following graduation from an approved law school, and submit satisfactory evidence thereof to the Washington State Bar Association;

(d) Certify in writing under oath that he or she has read, is familiar with, and will abide by, the Code of Professional Responsibility as adopted by the Supreme Court, and this Rule.

(2) Procedure

(a) The applicant shall submit an application on a form provided by the Washington State Bar Association. Such application shall set forth all of the qualifications of the applicant required in Rule 9B. There shall be no fee for filing such application.

(b) The application shall give the name of, and shall be signed by, the supervising attorney who, in doing so, shall assume the responsibilities of supervising attorney set forth in Rule 9D if the applicant is granted a limited license as a legal intern. The supervising attorney shall be relieved of such responsibilities upon the termination of such limited license or at such earlier time as the supervising attorney or the applicant shall give written notice to the Washington State Bar Association and the Supreme Court of the State of Washington requesting that the supervising attorney be so relieved. In the latter event another active member of the Bar may be substituted as such supervising attorney by giving written notice of such substitution, signed by the applicant and by

such other active member, to the Washington State Bar Association and the Supreme Court of the State of Washington.

(c) Upon receipt of the application, the Washington State Bar Association shall examine and evaluate such application and endorse thereon its approval or disapproval and forward the same to the Supreme Court of the State of Washington.

(d) The Supreme Court of the State of Washington shall issue or refuse the issuance of a limited license of a legal intern. The Court's decision shall be forwarded to the Washington State Bar Association, and the applicant shall be informed of the Court's decision.

C. Scope of Practice by Legal Intern Under the Limited License.

(1) A legal intern shall be authorized to engage in the limited practice of law, in civil and criminal matters, as authorized by the provisions of this Rule 9. A legal intern shall be subject to the Code of Professional Responsibility and Disciplinary Rules as adopted by the Supreme Court and to all other laws and rules governing lawyers admitted to the bar of this state, and shall be personally responsible for all services performed as an intern. Upon recommendation of the Disciplinary Board, a legal intern may be precluded from sitting for the Bar Examination or from being admitted as a member of the Washington State Bar Association within the discretion of the Board of Governors. Any such intern barred from the Bar Examination or from recommendation for admission by the Board of Governors shall have the usual rights of appeal to the State Supreme Court.

(2) A judge may exclude a legal intern from active participation in a case filed with the court in the interest of orderly administration of justice or for the protection of a litigant or witness, and shall thereupon grant a continuance to secure the attendance of the supervising attorney.

(3) No legal intern may receive payment from a client for his or her services; however, nothing contained herein shall prevent a legal intern from being paid for his or her services by the intern's employer or to prevent the employer from making such charges for the service of the legal intern as may otherwise be proper. A legal intern and his or her supervising attorney or an attorney from the same office shall, before the intern undertakes to perform any services for a client, inform the client of the legal intern's status as such.

(4) A legal intern may participate in Superior Court and Court of Appeals proceedings, including depositions, provided the supervising attorney or another attorney from the same office is present. Ex parte and agreed orders may be presented to the court by a legal intern without the presence of his or her supervising attorney or another attorney from the same office.

(5) After a reasonable period of in-court supervision, which shall be not less than one occasion in both jury and nonjury trials, a legal intern may, without the presence of the supervising attorney, participate in proceedings in courts from the judgment of which there is a right of trial de novo, except as otherwise provided in Rule 9C(6).

(6) Either the supervising attorney or an attorney from the same office shall be present in the representation of a defendant in all preliminary criminal hearings.

D. Supervising Attorneys—Qualifications, Responsibilities and Duties.

(1) The supervising attorney shall be an active member of the Washington State Bar Association and shall have been actively engaged in the practice of law in the State of Washington or elsewhere for at least three years at the time the application is filed.

(2) The supervising attorney or another attorney from the same office shall direct, supervise and review all of the work of the legal intern and both shall assume personal professional responsibility for any work undertaken by the legal intern while under his or her supervision. All pleadings, motions, briefs, and other documents prepared by the legal intern shall be reviewed by the supervising attorney or an attorney from the same office as the supervising attorney. When a legal intern signs any correspondence or legal document, the intern's signature shall be followed by the title "legal intern" and, if the document is prepared for presentation to a court or for filing with the clerk thereof, the document shall also be signed by the supervising attorney or an attorney from the same office as the supervising attorney. In any proceeding in which a legal intern appears before the court, the legal intern must advise the court of the intern's status and the name of the intern's supervising attorney.

(3) Supervision shall not require that the supervising attorney be present in the room while the legal intern is advising or negotiating on behalf of a person referred to the intern by the supervising attorney, or while the legal intern is preparing the necessary pleadings, motions, briefs, or other documents.

(4) No supervising attorney shall have supervision over more than one (1) legal intern at any one time; however, in the case of recognized legal aid, legal assistance, public defender and similar programs furnishing legal assistance to indigents, or of state, county or municipal legal departments, the supervising attorney may have supervision over two (2) legal interns at one time.

(5) No attorney shall be authorized to become a supervising attorney if the attorney is subject to pending disciplinary proceedings (following the service of a formal complaint) or if the attorney has ever been censured, reprimanded, suspended or disbarred. No attorney without the express approval of the Board of Governors shall be authorized to become a supervising attorney if the attorney is or within the previous 12 months has been the subject of any complaint received by the Washington State Bar Association which has not been resolved in the attorney's favor.

(6) An attorney currently acting as a supervising attorney may be terminated as a supervising attorney at the discretion of the Board of Governors. When an intern's supervisor is so terminated, the intern shall cease performing any services under this rule and shall cease holding himself or herself out as a legal intern until written notice of a substitute supervising attorney, signed

by the intern and by a new and qualified supervising attorney, is given to the Washington State Bar Association and to the Supreme Court of the State of Washington.

(7) The failure of a supervising attorney, or an attorney acting as a supervising attorney, to provide adequate supervision or to comply with the duties set forth in this Rule 9 shall be grounds for disciplinary action pursuant to the Discipline Rules for Attorneys.

(8) For purposes of the attorney-client privilege, an intern shall be considered a subordinate of the attorney providing supervision for the intern.

(9) For purposes of the provisions of this Rule 9D which permit an attorney from the same office as the supervising attorney to sign documents or be present with a legal intern during court appearances, the attorney so acting must be one who meets all of the qualifications for becoming a supervising attorney under this Rule 9.

E. Term of Limited License.

(1) A limited license as a legal intern shall be valid, unless revoked, for a period of 17 months, provided that a person who fails the Washington State Bar examination shall not continue to serve or to be eligible to become a legal intern after the date the results of the said Bar examination are made public.

(2) The approval given to a law student by his or her law school dean or the dean's designee or to a clerk by his or her tutor may be withdrawn at any time by mailing notice to that effect to the Clerk of the Supreme Court and to the Washington State Bar Association, and shall be withdrawn if the student ceases to be duly enrolled as a student prior to graduation or ceases to be in good academic standing or if the law clerk ceases to comply with APR 2(d).

(3) A limited license is granted at the sufferance of the Supreme Court of the State of Washington and may be revoked at any time upon the Court's own motion, or upon the motion of the Board of Governors of the Washington State Bar Association, in either case with or without cause.

(4) An intern shall immediately cease performing any services under this rule and shall cease holding himself or herself out as a legal intern: Upon termination for any reason of said intern's limited license under this rule; upon the resignation of the intern's supervising attorney; upon the suspension or termination by the Board of Governors of the Washington State Bar Association of the supervising attorney's status as supervising attorney; or upon the withdrawal of approval of the intern pursuant to APR 9(E)(2).

(5) Any person applying for permission to take the Washington State Bar examination who has ever had his or her limited license revoked shall disclose that fact on his or her application and explain the reason for revocation, if known.

F. Termination of this Rule.

This rule shall expire on December 31, 1978, unless continued by order of the Supreme Court. [Amended December 16, 1977, effective December 31, 1976; amended September 26, 1973, effective December 31, 1973; amended February 29, 1972, effective February

29, 1972; amended May 21, 1971, effective May 21, 1971; adopted June 4, 1970, effective June 4, 1970.]

Order of Supreme Court relating to term of limited license for legal interns:

WHEREAS, the Court on December 16, 1976, adopted amendments to APR 9(E)(1) relating to the term of the limited license of a legal intern, which amendments became effective December 31, 1976, and

WHEREAS, one of the amendments provided for the termination of the limited license of an intern who failed the Washington State Bar examination, and

WHEREAS, there are presently some legal interns having limited licenses heretofore granted pursuant to provisions of Admission to Practice Rule 9(E) in effect prior to December 31, 1976, who have previously failed to pass the Washington State Bar examination, and who will be immediately affected by the amendment to APR 9(E)(1),

NOW, THEREFORE, IT IS HEREBY ORDERED:

(a) That the limited license to practice as a legal intern of any legal intern who as of December 31, 1976, has previously failed to pass the Washington State Bar examination shall be extended to and shall expire on February 1, 1977.

(b) That by administrative en banc conference the Chief Justice is authorized to sign this order on behalf of the court.

Rule 11 Continuing legal education

Rule 11.1 Purpose. It is of primary importance to the members of the Bar and to the public that attorneys continue their legal education throughout the period of their active practice of law. These rules will establish the minimum requirements for continuing legal education. [Adopted November 29, 1976, effective January 1, 1977.]

Rule 11.2 Educational Requirement.

A. Minimum Requirement. Each active member of the Bar Association shall complete a minimum of 15 credit hours of approved or accredited legal education (as provided in Rule 11.4 hereof) during each calendar year after 1976. If a member completes more than 15 such hours in a given calendar year after 1976, the excess credit may be carried forward and applied to such member's education requirement for either or both of the next two succeeding calendar years. Such legal education completed between September 1, 1976, and December 31, 1976, shall be credited as though it had been completed in 1977.

B. New Admission. An attorney shall not be required to comply with this rule during the calendar year in which he or she is admitted nor for the following full calendar year. [Adopted November 29, 1976, effective January 1, 1977.]

Rule 11.3 Board of Continuing Legal Education. There is hereby established a Board of Continuing Legal Education (referred to herein as the Board) consisting of seven members. Six of the members of the Board must be active members of the Washington State Bar Association (referred to herein as the Bar Association). The seventh member shall not be a member of the Bar Association. The Supreme Court shall designate a chairperson of the Board, who shall serve at the pleasure of the Court. The members of the Board shall be nominated by the Bar Association and appointed by the Supreme

Court. Of the members first appointed, two shall be appointed for 1 year, three for 2 years, and two for 3 years. Thereafter, appointments shall be for a 3-year term. No member may serve more than two consecutive terms. Terms shall end on September 30 of the applicable year, except that no term shall end prior to September 30, 1977. [Adopted November 29, 1976, effective January 1, 1977.]

Rule 11.4 Powers of the Board. The Board shall approve individual courses and may accredit all or portions of the entire legal educational program of a given organization which, in the Board's judgment, will satisfy the education requirements of these rules. It shall determine the number of credit hours to be allowed for each such course. It shall discover and encourage the offering of such courses and programs by established organizations, whether offered within or outside of this state. The Board may adopt regulations pertinent to these powers subject to the approval of the Bar Association and the Supreme Court. Individual compliance with the educational or time requirements of these rules may be waived or modified by the Board upon a showing of undue hardship, age or infirmity. [Adopted November 29, 1976, effective January 1, 1977.]

Rule 11.5 Expenses of the Board. Members of the Board shall not be compensated for their services. For their actual and necessary expenses incurred in the performance of their duties, they shall be reimbursed by the Bar Association in a manner consistent with the Association's reimbursement of its committee members. The Bar Association shall furnish the Board with the necessary staff and clerical help to carry out its duties and shall pay all expenses reasonably and necessarily incurred by the Board, pursuant to a budget for the Board which the Board shall submit annually to the Bar Association, subject to approval by the Association. [Adopted November 29, 1976, effective January 1, 1977.]

Rule 11.6 Reports and Enforcement.

A. Compliance Report. On or before each January 31st hereafter, commencing January 31, 1978, each active member shall file a report with the Bar Association in such form as the Bar Association shall prescribe concerning such member's completion of accredited legal education during the preceding calendar year. If such member has not completed the minimum education requirement for the preceding year, compliance may still be accomplished by making up the deficiency within the first 4 months of the next succeeding calendar year, filing a supplemental report with the Bar Association by May 1 of such year evidencing such compliance in such form as the Bar Association shall prescribe and by paying a special \$50.00 filing fee therefor.

B. Delinquency. Any member who has not so complied by May 1 of each year hereafter, commencing with May 1, 1978, may be removed (or conditionally removed) from the roll of active members of the Bar and transferred to inactive status pending such member's compliance with Section A above. To effect such removal the

Board shall by written notice to the noncomplying member advise of the pendency of removal proceedings unless within 10 days of receipt of such notice such member shall complete and return to the Board an accompanying form of petition which may be accompanied by affidavit(s) in support of request for extension of time for or exemption from compliance with Section A above or for a ruling by the Board of substantial compliance therewith.

1. Unless such petition be so filed, the Board shall report such fact to the Supreme Court with its recommendations for appropriate action. The Supreme Court shall enter such order or conditional order as it deems appropriate.

2. If such petition be so filed, the Board may, in its discretion, approve the same without hearing, or may enter into agreement on terms with such member as to time and requirements for achieving compliance with the provisions of Section A.

3. If the Board does not so approve such petition or enter into such agreement with terms, the Board shall hold a hearing upon the petition and shall give the member at least 10 days' notice of the time and place thereof. Testimony taken at the hearing shall be under oath and the oath shall be administered by the chairperson of the Board. For good cause shown the Board may rule that the member has substantially complied with these rules for the year in question or, if he or she has not done so, it may grant the member an extension of time within which to comply and may do so upon terms as it may deem appropriate. As to each such application the Board shall enter written findings of fact and an appropriate order, a copy of which shall be mailed forthwith to the member at the address on file with the Bar Association. Any such order shall be final unless within 10 days from the date thereof the member shall file with the Bar Association at its office a written appeal to the Board of Governors of the Bar Association.

4. In its consideration of petitions for relief hereunder, the Board shall consider factors of hardship such as age or disability, or of restricted practice.

C. Appeal to Board of Governors. Any such appeal shall be considered by the Board of Governors at its next regular meeting (unless that meeting takes place less than 5 days following the perfection of the appeal, in which event it shall be the second meeting following thereafter). To perfect such appeal the member shall, at the member's expense, within 15 days of the filing of the notice of such appeal, cause to be transcribed and filed with the Bar Association a narrative report of proceedings in compliance with RAP 9.3. The Board chairperson shall certify that the narrative report of proceedings contains a fair and accurate report of the occurrences in and evidence introduced in the cause. Upon the filing of any such notice of appeal to the Board of Governors, the Bar Association shall prepare a transcript of all orders, findings, and other documents pertinent to the proceeding, which transcript shall be certified by the Board chairperson. The Board of Governors may require the member to submit his or her argument in writing and it may, but shall not be obligated to, permit the member or

his or her counsel to appear in person before it. The Board of Governors may affirm, reverse or modify the ruling of the Board of Continuing Legal Education as it deems appropriate. The decision of the Board of Governors shall be reduced to writing and a copy thereof shall be mailed forthwith to the member at the member's address. The decision of the Board of Governors shall be final, unless within 10 days from date thereof, the member shall file with the Bar Association at its office a written notice of appeal to the Supreme Court.

D. Appeal to the Supreme Court. To perfect such appeal to the Supreme Court, the member shall at the member's expense, if testimony was taken before the Board of Governors, cause to be transcribed and filed with the Bar Association as to proceedings before the Board of Governors, a narrative report of proceedings in compliance with RAP 9.3. The President of the Bar Association shall certify that any such narrative report of proceedings contains a fair and accurate report of the occurrences in and evidence introduced in the cause. The Bar Association shall prepare a transcript of all orders and other documents pertinent to the proceeding before the Board of Governors, which transcript shall be certified by the President of the Bar Association. The Bar Association shall then file promptly with the Clerk of the Supreme Court said narrative report of proceedings and the transcripts pertinent to the proceedings before the Board and the Board of Governors. The matter shall be heard in the Supreme Court on the motion calendar and the provisions of RAP 17.4 and RAP 17.5 shall be applicable thereto.

E. Time. The times set forth in this rule for filing notices of appeal are jurisdictional. The Board of Governors or the Supreme Court, as to appeals pending before each such body respectively, may, for good cause shown:

1. extend the time for the filing or certification of said statement of facts, or
2. dismiss the appeal for failure to prosecute the same diligently.

F. Costs. If the member prevails in his or her appeal before the Board of Governors or in his or her appeal to the Supreme Court, the member shall be awarded costs against the Bar Association in an amount equal to his or her reasonable expenditures for the preparation of the statement or statements of facts.

G. Change of Status. Once an attorney has been transferred to inactive membership status for noncompliance with these Rules, the attorney affected must comply with the then applicable regulations of the Board for transfer from inactive to active status. [Adopted November 29, 1976, effective January 1, 1977.]

Rule 11.7 Confidentiality. The files and records of the Bar Association, as they may relate to or arise out of any failure of a member of the Association to satisfy these continuing legal education requirements, shall be deemed confidential and shall not be disclosed except in furtherance of its duties, or upon request of the attorney affected, or pursuant to a proper subpoena duces tecum,

or as directed by this Court. [Adopted November 29, 1976, effective January 1, 1977.]

DISCIPLINE RULES FOR ATTORNEYS (DRA)

XIII. Audits

Rule

- 13.1 Audit and investigation of books and records.
- 13.2 Cooperation of attorney.
- 13.3 Declaration or questionnaire.
- 13.4 Disclosure.
- 13.5 Regulations.

Rule 13.1 Audit and investigation of books and records. The Board and its Chairman shall have the following authority to examine, investigate and audit the books and records of any attorney for the purpose of ascertaining and reporting whether (CPR) DR 9-102 has been or is being complied with by such attorney:

(a) The Board may from time to time authorize examinations of the books and records of any attorneys or firms of attorneys, selected at random. Such examinations shall extend only to the books and records of such attorneys or firms of attorneys.

(b) The Chairman of the Board may, upon information that a particular attorney or firm of attorneys may not be in compliance with (CPR) DR 9-102, authorize an examination limited to the scope set forth in section (a).

(c) Upon the examination set forth in section (a) or (b), if the Chairman of the Board shall determine that further examination is warranted, the Chairman may then order an appropriate audit of the attorney's or the firm's books and records, including verification of the information therein from available sources. [Adopted June 14, 1977, effective July 1, 1977.]

Rule 13.2 Cooperation of attorney. It shall be the duty and obligation of any attorney or firm who is subject to examination, investigation and audit under Rule 13.1 to cooperate with the person conducting the examination, investigation or audit subject only to the proper exercise of any privilege against self-incrimination where applicable, by:

(a) Producing to such person forthwith all evidence, books, records and papers as such person shall request for the purpose of his or her examination, investigation or audit;

(b) Furnishing forthwith such explanations as the person may require for the purpose of his or her examination, investigation or audit;

(c) Producing, in those cases where the examination, investigation or audit is being conducted pursuant to Rule 13.1(c), to such person forthwith written authorization, directed to any bank or depository, for the person to examine, investigate or audit trust and general accounts, safe deposit boxes and other forms of maintaining trust property by the attorney in such bank or depository. [Adopted June 14, 1977, effective July 1, 1977.]

Rule 13.3 Declaration or questionnaire. The Association shall cause to be directed annually to each attorney a written declaration or questionnaire designed to

determine whether such attorney is complying with (CPR) DR 9-102. Such declaration or questionnaire shall be completed, executed and delivered by such attorney to the Association on or before the date of delivery specified in such declaration or questionnaire. [Adopted June 14, 1977, effective July 1, 1977.]

Rule 13.4 Disclosure. The examination and Audit Report shall be open to the Disciplinary Board, the attorney examined, investigated or audited, and to the Board of Governors upon its request, unless a disciplinary proceeding is commenced in which event the disclosure provision of Rule 11.7 shall apply. [Adopted June 14, 1977, effective July 1, 1977.]

Rule 13.5 Regulations. The Board may adopt regulations pertinent to the powers set forth in this rule subject to the approval of the Board of Governors and the Supreme Court. [Adopted June 14, 1977, effective July 1, 1977.]

SUPREME COURT ADMINISTRATIVE RULES (SAR)

Rule

- 21 Justices Pro Tempore.

Rule 21 Justices pro tempore. (1) Selection and Use. When a member of the court is disqualified or unable to function on a case for good cause, a majority of the regular remaining members of the court may, by written order, designate a justice pro tempore to sit with the court en banc to hear and determine the cause. The designating order shall set forth the period of service. In no event shall more than two justices pro tempore sit with the court en banc. No justice pro tempore shall be appointed who has less than five years service as a judge of record.

(2) Qualification. A justice pro tempore shall take the oath of office required by Article 4, § 28 of the state Constitution. The oath of office, together with the original order of appointment, shall be filed forthwith in the office of the secretary of state. A copy of the oath and order of appointment shall be filed in the office of the clerk of the supreme court.

(3) Duties of the Justice Pro Tempore.

(a) A justice, while serving pro tempore, shall have the same power and authority as a justice of the supreme court, and he shall perform such duties as the court may direct. Justices pro tempore shall not author majority opinions other than in those cases wherein they prevail by concurring or dissenting opinion.

(b) A justice pro tempore will function promptly on opinions and petitions for rehearing on which he is qualified to function. When such opinions are received by him after the period of his appointment has expired, his original period of office as a justice pro tempore shall be deemed to exist in order for him to function and to accomplish the ministerial act of filing the opinion.

(4) Publication of Opinions.

(a) Dissents and Concurrences. Dissents or concurrences written by a justice pro tempore shall be

published in regular form, except that a reference symbol shall be placed after his name, directing attention to a footnote which shall read:

"Justice _____ is serving as a justice pro tempore of the supreme court pursuant to Const. Art. 4 § 2(a) (amendment 38)."

(b) Opinions signed by a justice pro tempore shall be published in the regular form, except that the name of the justice pro tempore shall follow the names of the justices of the supreme court signing such opinion, with the designation "Pro Tem." after his signature.

(c) There shall appear, in each bound volume of the Washington Reports, on the page following the page listing the justices of the supreme court, the names and terms of office of the justices pro tempore who served during the period covered by the published volume. [Adopted December 16, 1976, effective January 1, 1977; adopted July 2, 1969, effective July 18, 1969; amended, adopted September 3, 1969, effective September 12, 1969. Prior: Adopted March 13, 1963, effective March 13, 1963; amended, adopted April 29, 1963, effective April 29, 1963; Subsec. (2) amended, effective March 19, 1964.]

Judges pro tempore of the supreme court, compensation and expenses: RCW 2.04.240, 2.04.250.

Part II

RULES FOR APPELLATE COURT ADMINISTRATION

COURT OF APPEALS ADMINISTRATIVE RULES (CAR)

Rule

21 Transfer of judges and cases.

Rule 21 Transfer of judges and cases. (a) Generally. A judge of one division of the Court of Appeals may sit in any other division, and a case may be transferred from one division to another, as directed by written order of the Chief Justice of the Supreme Court.

(b) For Settlement Conferences. A judge or judge pro tempore of the Court of Appeals may be assigned to expedite the use of settlement conferences provided for under CAROA 64 as follows:

(1) Judge. A judge of one division of the Court of Appeals may sit in any other division as a settlement conference judge or to replace during argument and decision a judge of another division who has acted as a settlement conference judge, as directed by written order of the Chief Justice of the Supreme Court.

(2) Judge Pro Tempore. A retired judge of a court of record may sit in any division of the Court of Appeals as a settlement conference judge or to replace during argument and decision a judge who has acted as a settlement conference judge, as appointed by the Chief Justice of the Supreme Court. [Amended July 13, 1977, effective

February 28, 1977; amended December 10, 1975, effective March 1, 1976; adopted July 2, 1969, effective July 11, 1969.]

Part III RULES ON APPEAL

RULES OF APPELLATE PROCEDURE (RAP)

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Rule 18.11 Civil appeal statement and settlement conference in court of appeals.

Appendix of Forms

Form 21 Civil appeal statement

TITLE 5—HOW AND WHEN TO INITIATE REVIEW OF TRIAL COURT DECISION

Rule 5.5 Civil Appeal Statement and Settlement Conference in Court of Appeals

(a) **Application of Rule.** This rule applies only to an appeal to the Court of Appeals from a trial court decision in a civil case.

(b) **Service and Filing of Civil Appeal Statement.** A party that files a notice of appeal must, within 15 days after the notice is filed, serve on all other parties and file in the Court of Appeals a "civil appeal statement" in the form provided in section (c).

(c) **Form of Civil Appeal Statement.** The statement should be captioned "Civil Appeal Statement," contain the title of the case as provided in Rule 3.4, and contain under appropriate headings and in the order here indicated:

(1) **Nature of Case and Decision.** A short statement of the substance of the case below and the basis for the trial court decision.

(2) **Issues Presented for Review.** A statement of each issue the party intends to present for review by the Court of Appeals.

(3) **Relief Sought In Court of Appeals.** The relief the party seeks in the Court of Appeals.

(4) *Trial Court.* The name of the court from which the appeal was taken.

(5) *Judge.* The name of the trial court judge who made the decision which is being reviewed.

(6) *Date of Decision.* The date the decision was entered in the trial court.

(7) *Post Decision Motions.* A statement of each post decision motion made in the trial court including the nature of the motion, the date the motion was made, the decision on the motion, and the date the decision was entered.

(8) *Notice of Appeal.* The date the notice of appeal was filed. A copy of the notice should be attached to the statement.

(9) *Counsel.* The name, address, and telephone number of counsel for each party.

(10) *Method of Disposition in Trial Court.* A statement of the method used to decide the case in the trial court.

(11) *Relief Granted by Trial Court.* A short statement of the relief granted by the trial court.

(12) *Relief Denied by Trial Court.* A short statement of the relief sought by the party making the statement which was denied by the trial court.

(13) *Certificate of Counsel.* A statement signed by counsel for the party filing the statement certifying that the appeal is taken in good faith; the appeal is not taken for the purpose of delay; and that the party represented by counsel is or is not prepared to immediately take all steps to complete the appeal. If the statement indicates the party is not prepared to immediately take all steps to complete the appeal, the certificate of counsel must state why the party is not prepared to immediately complete the appeal.

(d) Answer to Civil Appeal Statement. A respondent must file an answer to the civil appeal statement within seven days after service of the statement on respondent. The answer should include any modifications to the civil appeal statement that the respondent feels are necessary to give the settlement conference judge a fair presentation of the matters material to settlement of the case. To the extent reasonably necessary to meet this objective, the answer should correct any errors in the civil appeal statement, and present any new issues or modify those presented in the civil appeal statement.

(e) Notice of Settlement Conference. The Chief Judge of the Court of Appeals will determine if one or more settlement conferences are appropriate in each civil appeal. The clerk of the Court of Appeals will notify each party if a settlement conference is to be held. The notice will specify the date, time, and place of the conference; the name of the judge or judge pro tempore who will conduct the conference; and whether the parties are required to attend the conference.

(f) Stay Pending Settlement Conference. Unless the notice of the settlement conference states otherwise, a party who has received a notice of settlement conference is not required to take any further steps to complete the review until the settlement conference is concluded. After the settlement conference is completed, the clerk or a commissioner or the settlement judge will establish the

dates within which the remaining steps in the review should be completed.

(g) Attendance at Settlement Conference. The attorney for each party, and the party if the notice requires it, must attend the settlement conference on the date, time, and place specified in the clerk's notice. Those in attendance should be ready to seriously consider the possibility of settlement, limitation of the issues to be presented for review, and other matters which may promote the prompt and fair disposition of the appeal.

(h) Settlement Conference Order. If the parties agree to settle the case, limit the issues, or to other matters to promote the prompt and fair disposition of the appeal, the settlement judge may enter an order consistent with that agreement. If the settlement conference order fully settles the case, the clerk of the Court of Appeals will immediately issue the mandate to the trial court with directions to enter judgment as indicated in the order. In all other cases the order is binding on the parties during the review proceeding, unless the appellate court otherwise directs on its own initiative or on motion of a party for good cause shown and on those terms the appellate court deems appropriate.

(i) Sanctions. If a party or counsel for a party fails to comply with this rule or to comply with a settlement conference order, the Court of Appeals may impose sanctions or dismiss the review proceeding as provided in Rule 18.9.

(j) Settlement Conference Judge May Be Disqualified. The settlement conference judge may hear the appeal on the merits unless (1) the judge decides the best interests of justice would be served by refraining from hearing the case on the merits, or (2) a party disqualifies the judge by request to the clerk of the appellate court. A party may disqualify the judge without cause. Each clerk of the Court of Appeals shall adopt and implement a procedure to preserve the confidentiality of the identity of a party who disqualifies the judge. [Adopted February 28, 1977, effective February 28, 1977]

References

Form 21, Civil Appeal Statement.

Comment: This rule, as Rule 18.11, was initially effective on a trial basis from March 1, 1976 through February 28, 1977. The Supreme Court, in making the rule permanent, has caused it to be retitled and relocated as Rule 5.5. The Court of Appeals has experienced a substantial and dramatic increase in the number of review proceedings being filed in that court. As a result, the backlog in the Court of Appeals has reached crisis proportions.

The procedure established by this rule was suggested to the Supreme Court by several of the judges of the Court of Appeals who studied a similar, but not identical, procedure being used by the New York Supreme Court Appellate Division. The New York experience indicates this procedure holds substantial promise to help reduce the backlog of appellate cases.

TITLE 14—COST

Rule 14.4 Cost Bill.

(a) Generally. Except as provided in sections (b) and (c), a party seeking costs on review must file a cost bill with the appellate court and serve a copy of the cost bill on all parties within 10 days after the filing of an appellate court decision terminating review. If a party seeks

costs for an expense incurred after the time to file a cost bill has expired, that party must serve on all parties and file a supplemental cost bill with the appellate court within 10 days after the expense was incurred. If a decision terminating review is modified to the extent that a different party is entitled to costs, the party seeking costs must file a cost bill with the appellate court and serve a copy of the cost bill on all parties within 10 days after the filing of the decision which modifies the original decision terminating review.

(b) When Costs Abide Final Result And There is No Second Review. If the costs on review are to abide the final determination in the trial court and that final determination is not reviewed by the appellate court, a party seeking costs must, within 30 days after the time to seek review of the trial court decision has expired, file with the appellate court and serve on each party: (1) a cost bill for costs on review, or if a cost bill was filed for the earlier review, a copy of the cost bill previously filed in the appellate court, (2) a copy of the final determination of the trial court, and (3) an affidavit stating that a notice of appeal or notice for discretionary review of the decision finally determining the case has not been filed.

(c) When Costs Abide Final Result and There is a Second Review. If the costs on review are to abide the final determination of the case by the trial court and that final determination is reviewed by the appellate court, the costs of the earlier review will be taxed at the same time the costs of the later review are taxed. A party seeking costs of the earlier review must file (1) a cost bill for costs on the earlier review or, if a cost bill was filed for the earlier review, a copy of the cost bill for the earlier review, and (2) a cost bill for the later review. [Amended November 9, 1976, effective January 1, 1977; adopted January 28, 1976, effective July 1, 1976.]

References:

Form 10, Cost Bill.

Rule 12.5, Mandate.

Comment: The rule changes current practice. See ROA 1-55(c). Time limits have been extended from 10 to 30 days and the time begins to run on issuance of the mandate.

TITLE 16—SPECIAL PROCEEDINGS IN THE SUPREME COURT AND COURT OF APPEALS

Rule 16.11 Personal restraint petition—Consideration of petition.

(a) Generally. The Chief Judge will consider the petition promptly after the time has expired to file petitioner's reply brief. The Chief Judge determines at the initial consideration if the petition will be retained by the appellate court for determination on the merits or transferred to a superior court for determination on the merits or for a reference hearing.

(b) Determination by Appellate Court. The Chief Judge determines at the initial consideration of the petition the steps necessary to properly decide on the merits the issues raised by the petition. If the issues presented are frivolous, the Chief Judge will dismiss the petition. If the petition is not frivolous and can be determined solely

on the record, the Chief Judge will refer the petition to a panel of judges for determination on the merits. If the petition cannot be determined solely on the record, the Chief Judge will transfer the petition to a superior court for a determination on the merits or for a reference hearing. The Chief Judge may enter other orders necessary to obtain a prompt determination of the petition on the merits.

(c) Oral Argument. Decisions of the Chief Judge will be made without oral argument. If a petition is to be decided on the merits by a panel of judges, the appellate court clerk will set the petition for consideration by the panel of judges, with or without oral argument. If oral argument is directed, the clerk will notify the parties of the date set for oral argument. [Amended November 9, 1976, effective January 1, 1977; adopted January 28, 1976, effective July 1, 1976.]

Comment: Under old CrR 7.7, the Chief Judge of the Court of Appeals could do one of two things with an application for post-conviction relief. The Chief Judge would dismiss the application if it had no basis in fact or law, or transfer it to a superior court for determination on the merits. The new rules provide for four alternatives. If the petition is frivolous, it is dismissed. If the petition is not frivolous and can be determined on the record in the appellate court, the petition is referred directly to a panel of appellate court judges for determination on the merits. If the petition cannot be determined solely on the record, the petition is sent to the superior court for a reference hearing to determine disputed facts or for a determination on the merits.

Rule 16.12 Personal restraint petition—Reference hearing. If the appellate court transfers the petition to a superior court, the transfer will be to the superior court for the county in which the decision was made resulting in the restraint of petitioner or, if petitioner is not being restrained on the basis of a decision, in the superior court in the county in which petitioner is located. If the respondent is represented by the attorney general, the prosecuting attorney, or a municipal attorney, respondent must take steps to obtain a prompt evidentiary hearing and must serve notice of the date set for hearing on all other parties. The parties, on motion and for good cause shown, will be granted reasonable pretrial discovery. Each party has the right to subpoena witnesses. The hearing shall be held before a judge who was not involved in the challenged proceeding. The petitioner has the right to be present at the hearing and the right to cross-examine adverse witnesses. The rules of evidence apply at the hearing. Upon the conclusion of the hearing, if the case has been transferred for a reference hearing the superior court shall enter findings of fact and have the findings and all appellate court files forwarded to the appellate court. Upon the conclusion of the hearing if the case has been transferred for a determination on the merits, the superior court shall enter findings of fact and conclusions of law and an order deciding the petition. [Amended November 9, 1976, effective January 1, 1977; adopted January 28, 1976, effective July 1, 1976.]

Comment: This rule establishes the procedure in a superior court hearing if the petition is transferred to that court for a reference hearing. The rule is consistent with *ABA Standards Relating to Post-Conviction Remedies*. The petitioner has the right to be present at the hearing. See ABA Standard 4.6(b). Normal rules of evidence apply. See ABA Standard 4.6(c). Reasonable discovery proceedings are available.

Rule 16.14 Personal restraint petition—Appellate review.

(a) **Decision Whether to Transfer.** A decision to transfer a petition to a superior court for a hearing or to retain the petition for determination by the appellate court is not subject to review by the Supreme Court.

(b) **Decision of Superior Court.** A decision of a superior court in a personal restraint proceeding transferred to that court for a determination on the merits is subject to review in the same manner and under the same procedure as any other trial court decision.

(c) **Other Decisions.** If the petition is dismissed by the Chief Judge or decided by the Court of Appeals on the merits, the decision is subject to review by the Supreme Court only by a motion for discretionary review on the terms and in the manner provided in Rule 13.5(a), (b), and (c). [Amended November 9, 1976, effective January 1, 1977; adopted January 28, 1976, effective July 1, 1976.]

Comment: This rule clarifies which decisions are subject to review and the means of obtaining review.

Rule 16.15 Personal restraint petition—Supplemental provisions.

(a) **Motion.** The procedure for and form of a motion is as provided in Title 17, except that a motion by the petitioner must be verified in the same manner as a petition. Motions will ordinarily be considered without oral argument.

(b) **Release by Appellate Court of Person in Custody.** The appellate court may release a petitioner on bail or personal recognizance before deciding the petition, if release prevents further unlawful confinement and it is unjust to delay the petitioner's release until the petition is determined. The appellate court or the superior court in its decision on the merits, or by separate order after a decision on the merits, may release a petitioner on bail or on personal recognizance. The appellate court may direct the release of petitioner with the conditions of release to be determined by a trial court.

(c) **Oral Argument.** Except as otherwise provided in Rule 16.11(c), the procedure for oral argument is governed by Title 11.

(d) **Disposition of Petition.** The petition will be determined by the appellate court by written opinion or order briefly stating the reasons for the determination.

(e) **Costs.** Costs are awarded as provided in Title 14.

(f) **Indigency—Superior Court Determination.** The provisions of CrR 3.1 apply to a personal restraint petition transferred to a superior court. If any of petitioner's expenses incurred in the superior court are to be paid with public funds, the expenses shall be paid with funds appropriated by the county in which the superior court is located.

(g) **Indigency—Appellate Court Proceeding.** If the restraint is imposed by the state or local government, and if the appellate court determines that petitioner is

indigent, the court may provide for the appointment of counsel at public expense for services in the appellate court, order waiver of charges for reproducing briefs and motions, provide for the preparation of the record of prior proceedings and provide for the payment of such other expenses as may be necessary to consider the petition in the appellate court. Invoices for expenses of an indigent person in the appellate court must be submitted to the appellate court which decided the petition in the form and manner provided in Rule 15.4, except that a trial court order of indigency is not required and the invoice must be submitted within 45 days after the appellate court decision terminating the proceeding is filed. If a petitioner who claims to be indigent is in the custody of an agency of the Department of Social and Health Services, the clerk of the appellate court will obtain a statement of petitioner's known assets from the superintendent of the institution where petitioner is confined. Statutes providing for payment of expenses with public funds are not superseded. [Amended November 9, 1976, effective January 1, 1977; adopted January 28, 1976, effective July 1, 1976.]

References:

Title 15, Special Provisions Relating to Rights of Indigent Party.

Comment: (b) *Release by Appellate Court of Person in Custody.* See *ABA Standards Relating to Post-Conviction Remedies*, Standard 5.2(b), which states in part:

The appellate court, or an individual judge or justice, should be authorized to release applicants for post-conviction relief or otherwise to stay execution of their judgments of conviction pending appellate review.

The conditions of release, such as the amount of bail or personal recognizance, may be determined by the trial court.

TITLE 18—SUPPLEMENTAL PROVISIONS

Rule 18.11 Civil appeal statement and settlement conference in court of appeals. [Rescinded February 28, 1977, effective February 28, 1977; adopted January 28, 1976, effective July 1, 1976.]

APPENDIX OF FORMS

Form 21. Civil appeal statement.

[Rule 5.5(c)]

COURT OF APPEALS DIVISION [-----]
STATE OF WASHINGTON

[Title of trial court proceeding with parties designated as in Rule 3.4]

CIVIL APPEAL STATEMENT

1. Nature of the Case and Decision
[State the substance of the case below and the basis for the trial court decision. For example, "Defendant was driving his automobile when struck from the rear by a truck driven by Jones. An automobile coming from the opposite direction driven by an uninsured motorist crossed the center line into the lane occupied by defendant and collided with the defendant's car. Defendant settled his claim against Jones and executed a release without the consent of

plaintiff insurance company. The policy issued by plaintiff contained a provision which excluded coverage under the uninsured motorist provisions for bodily injury to an insured who has made any settlement with any person without the written consent of the company. The trial court held that this exclusion violated public policy by restricting the uninsured motorist coverage required by RCW 48.22.030 and declared the exclusion void."]

2. Issues Presented for Review
[State the issues the party intends to present for review by the Court of Appeals. For example, "Whether a provision which excludes coverage when the insured does not secure the insurer's consent before settling with any person responsible for any injury violates public policy by restricting the uninsured motorist coverage required by RCW 48.22.030?" List under each issue the legal authority relevant to that issue.]
3. Relief Sought in Court of Appeals
[State the relief the party seeks in the Court of Appeals. For example, "Reversal of trial court decision with directions to enter judgment declaring that defendant is not covered by the uninsured motorist provisions of the liability policy issued by plaintiff."]
4. Trial Court
[Name of County] County Superior Court
5. Judge
[Name of Trial Court Judge]
6. Date of Decision
[The date the decision was entered in the trial court]
7. Post Decision Motions
[State each post decision motion made in the trial court including the nature of the motion, the date the motion was made, the decision on the motion, and the date the decision was entered.]
8. Notice of Appeal
The notice of appeal was filed on [date]. A copy of the notice of appeal is attached to this statement.
9. Counsel
Counsel for appellant [name of appellant] is [name, address and telephone number of attorney].
Counsel for respondent [name of respondent] is [name, address and telephone number of attorney].
10. Method of Disposition in Trial Court
[State the method used to decide the case in the trial court. For example, "summary judgment, order of dismissal, judgment after trial to the court, judgment after jury trial."]
11. Relief Granted by Trial Court
[State the relief granted by the trial court. For example, "The trial court entered a judgment declaring that defendant has coverage under the uninsured motorist provisions of the automobile liability policy issued by plaintiff."]
12. Relief Denied by Trial Court
[State the relief sought by the party making the statement which was denied by the trial court. For example, "Plaintiff sought a judgment declaring

that the uninsured motorist provision of the automobile liability policy no longer provided coverage to defendant."]

13. Certificate of Counsel
I, attorney for appellant [name of appellant], certify that this appeal is taken in good faith and not for purposes of delay. I further certify that my client [is or is not] prepared to immediately take all steps to complete the appeal. [If the statement indicates the party is not prepared to immediately take all steps to complete the appeal, state here why the party is not prepared to immediately complete the appeal.]

[Date]

Signature

Attorney for Appellant
[Name, address, and telephone number of attorney]

[Amended February 28, 1977, effective February 28, 1977; adopted January 28, 1976, effective July 1, 1976.]

Reference:
Relocated as RAP 5.5.

Part IV RULES FOR SUPERIOR COURT

SUPERIOR COURT CIVIL RULES (CR)

(Formerly: Civil Rules for Superior Court (CR); Rules of Pleading, Practice and Procedure, RPPP.)

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II. COMMENCEMENT OF ACTION; SERVICE OF PROCESS; PLEADINGS; MOTIONS AND ORDERS.

Rule 4 Process.

(-) **What Is Process.** A summons is deemed to be process under these rules. These Rules do not exclude the use of other forms of process authorized by law.

(a) **Summons; Issuance.** The summons must be subscribed by the plaintiff or his attorney, and directed to the defendant requiring him to appear and defend, and serve a copy of his appearance or defense on the person whose name is subscribed to the summons at a place within the state therein specified in which there is a post

office, within 20 days after the service of the summons, exclusive of the day of service. No summons is necessary for a counterclaim or cross-claim for any person who previously has been made a party. Counterclaims and cross-claims against an existing party may be served as provided in Rule 5.

Comment by the Court. Subdivision (a) follows and supersedes RCW 4.28.030.

(b) Summons.

(1) *Contents.* The summons for personal service shall contain:

(A) The title of the cause, specifying the name of the court in which the action is brought, the name of the county designated by the plaintiff as the place of trial, and the names of the parties to the action, plaintiff and defendant.

(B) A direction to the defendants summoning them to appear within 20 days after service of the summons, exclusive of the day of service, and defend the action.

(C) A notice that, in case of failure so to do, judgment will be rendered against them according to the demand of the complaint. It shall be subscribed by the plaintiff, or his attorney, with the addition of his post office address, at which the papers in the action may be served on him by mail.

(2) *Form.* The summons for personal service in the State shall be substantially in the following form:

SUPERIOR COURT OF WASHINGTON
FOR _____ COUNTY

Richard Roe, Plaintiff,

vs.

James Moe, Defendant

No. _____

SUMMONS

The State of Washington, _____, to the said _____, Defendant:

You are hereby summoned to appear within 20 days after service of this summons, exclusive of the day of service, and defend the above entitled action by serving a copy of your written appearance or defense upon the undersigned. If you fail to appear and defend, judgment will be rendered against you, according to the demand of the complaint, which has been or will be filed with the clerk of the court, or a copy of which is herewith served upon you.

John Doe, Plaintiff's Attorney
P.O. Address
[Telephone No.]

Comment by the Court. Paragraph (1) follows and supersedes RCW 4.28.040. Paragraph (2) follows and supersedes RCW 4.28.050 with minor clarifying changes.

(c) *By Whom Served.* Service of summons and process, except when service is by publication, shall be by the sheriff of the county wherein the service is made, or by his deputy, or by any person over 18 years of age who is competent to be a witness in the action, other than a party. Subpoenas may be served as provided in Rule 45. [Amended November 29, 1971, effective January 1, 1972; adopted May 5, 1967, effective July 1, 1967.]

Comment by the Court. Subdivision (c) follows and supersedes RCW 4.28.070.

(d) Service.

(1) *Of Summons and/or Complaint.* The summons and complaint shall be served together unless the complaint has been or is filed within 5 days after service of summons. When a summons is served without a complaint, the summons must notify the defendant that a complaint has been or will be filed prior to service of the summons or will be filed within 5 days after the service. If the defendant appears within 10 days after the service of the summons, the plaintiff must serve a copy of the complaint on the defendant or his attorney within 10 days after the notice of such appearance, and the defendant shall have at least 10 days thereafter to answer the same; and no judgment shall be entered against him for want of an answer in such case until the expiration of the time.

(2) *Personal in State.* Personal service of summons and other process shall be as provided in RCW 4.28-.080, 4.28.081, 4.28.090, 23A.08.110, 23A.32.100, 46-.64.040, 48.05.200 and 48.05.210, and other statutes which provide for personal service.

(3) *By Publication.* Service of summons and other process by publication shall be as provided in RCW 4.28.100, 4.28.110, 13.04.080, and 26.32.080, and other statutes which provide for service by publication.

(4) *Alternative to Service by Publication.* In circumstances justifying service by publication, if the serving party files an affidavit stating facts from which the court determines that service by mail is just as likely to give actual notice as service by publication, the court may order that service be made by any person over 18 years of age, who is competent to be a witness, other than a party, by mailing copies of the summons and other process to the party to be served at his last known address or any other address determined by the court to be appropriate. Two copies shall be mailed, postage prepaid, one by ordinary first class mail and the other by a form of mail requiring a signed receipt showing when and to whom it was delivered. The envelopes must bear the return address of the sender. The summons shall contain the date it was deposited in the mail and shall require the defendant to appear and answer the complaint within 90 days from the date of mailing. Service under this subsection has the same jurisdictional effect as service by publication.

(5) *Appearance.* A voluntary appearance of a defendant does not preclude his right to challenge lack of jurisdiction over his person, insufficiency of process, or insufficiency of service of process pursuant to Rule 12(b).

Comment by the Court. Paragraph (1) supersedes RCW 4.28.060. The rule should be read in connection with Rule 3. Paragraph (4) supersedes the last sentence of RCW 4.28.020.

(e) Other Service.

(1) *Generally.* Whenever a statute or an order of court thereunder provides for service of a summons, or of a notice, or of an order in lieu of summons upon a party not an inhabitant of or not found within the state, service may be made under the circumstances and in the manner prescribed by the statute or order, or if

there is no provision prescribing the manner of service, in a manner prescribed by this rule.

(2) *Personal Service Out of State—Generally.* [Reserved—See RCW 4.28.180.]

(3) *Personal Service Out of State—Acts Submitting Person to Jurisdiction of Courts.* [Reserved—See RCW 4.28.185.]

(4) *Non-Resident Motorist.* [Reserved—See RCW 46.64.040.]

Comment by the Court. Paragraph (1) follows FRCP 4(e) as amended with appropriate changes.

(f) **Territorial Limits of Effective Service.** All process other than a subpoena may be served anywhere within the territorial limits of the state, and when a statute or these rules so provide beyond the territorial limits of the state. A subpoena may be served within the territorial limits provided in Rule 45 and RCW 5.56.010.

Comment by the Court. Subdivision (f) follows FRCP 4(f) with appropriate changes. This subdivision is similar to the first sentence of RCW 2.08.210.

(g) **Return of Service.** Proof of service shall be as follows:

(1) If served by the sheriff or his deputy, the return of the sheriff or his deputy indorsed upon or attached to the summons;

(2) If served by any other person, his affidavit of service endorsed upon or attached to the summons; or

(3) If served by publication, the affidavit of the printer, publisher, foreman, principal clerk, or business manager of the newspaper showing the same, together with a printed copy of the summons as published; or

(4) If served as provided in subsection (d)(4), the affidavit of the serving party stating that copies of the summons and other process were sent by mail in accordance with the rule and directions by the court, and stating to whom, and when, the envelopes were mailed.

(5) The written acceptance or admission of the defendant, his agent or attorney;

(6) In case of personal service out of state, the affidavit of the person making the service, sworn to before a notary public, with a seal attached, or before a clerk of a court of record.

(7) In case of service otherwise than by publication, the return, acceptance, admission, or affidavit must state the time, place, and manner of service. Failure to make proof of service does not affect the validity of the service.

Comment by the Court. Subdivision (g) follows RCW 4.28-.310 which is superseded. The last sentence of FRCP 4(g) is added.

(h) **Amendment of Process.** At any time in its discretion and upon such terms as it deems just, the court may allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

Comment by the Court. Subdivision (h) is identical to FRCP 4(h).

(i) **Alternative Provisions for Service in a Foreign Country.**

(1) *Manner.* When a statute or rule authorizes service upon a party not an inhabitant of or found within

the state, and service is to be effected upon the party in a foreign country, it is also sufficient if service of the summons and complaint is made: (A) in the manner prescribed by law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or (B) as directed by the foreign authority in response to a letter rogatory, when service in either case is reasonably calculated to give actual notice; or (C) upon an individual, by delivery to him personally, and upon a corporation or partnership or association, by delivery to an officer, a managing or general agent; or (D) by any form of mail, requiring a signed receipt, to be addressed and mailed to the party to be served; or (E) as directed by order of the court. Service under (C) or (E) above may be made by any person who is not a party and is not less than 21 years of age or who is designated by order of the court or by the foreign court.

(2) *Return.* Proof of service may be made as prescribed by subdivision (g) of this rule, or by the law of the foreign country, or by order of the court. When service is made pursuant to subparagraph (1)(D) of this subdivision, proof of service shall include a receipt signed by the addressee or other evidence of delivery to the addressee satisfactory to the court. [Amended June 13, 1977, effective July 1, 1977; amended November 29, 1971, effective January 1, 1972; adopted May 5, 1967, effective July 1, 1967.]

Comment by the Court: Subdivision (i) follows FRCP 4(i).

VI. TRIALS

Rule 44.1 Determination of foreign law.

(a) **Pleading.** A party who intends to raise an issue concerning the law of a foreign country shall give notice in his pleadings or other reasonable written notice.

(b) **United States Jurisdiction.** See chapter 5.24 RCW.

(c) **Other Jurisdictions.** The court, in determining the law of any jurisdiction other than a state, territory, or other jurisdiction of the United States, may consider any relevant written material or other source, including testimony, having due regard for their trustworthiness, whether or not submitted by a party and whether or not admissible under the rules of evidence. If the court considers any material or source not received in open court, prior to its determination the court shall:

(1) Identify in the record such material or source;

(2) Summarize in the record any unwritten information received; and

(3) Afford the parties an opportunity to respond thereto. The court's determination shall be treated as a ruling on a question of law. [Adopted June 13, 1977, effective July 1, 1977.]

VII. JUDGMENT

Rule 55 Default and judgment.

(a) **Entry of Default.**

(1) *Motion.* When a party against whom a judgment for affirmative relief is sought has failed to appear, plead, or otherwise defend as provided by these rules and

that fact is made to appear by motion and affidavit, a motion for default may be made.

(2) *Pleading After Default.* Any party may respond to any pleading or otherwise defend at any time before a motion for default and supporting affidavit is filed, whether the party previously had appeared or not. If the party had appeared before the motion is filed, he may respond to the pleading or otherwise defend at any time before the hearing on the motion. If the party had not appeared before the motion is filed he may not respond to the pleading nor otherwise defend without leave of court. Any appearances for any purpose in the action shall be for all purposes under this Rule 55.

(3) *Notice.* Any party who has appeared in the action for any purpose, shall be served with a written notice of motion for default and the supporting affidavit at least 5 days before the hearing on the motion. Any party who has not appeared before the motion for default and supporting affidavit are filed, is not entitled to a notice of the motion, except as provided in Rule 55(f)(2)(A).

Comment by the Court. Paragraph (1) follows FRCP 55(a). Paragraph (2) supersedes RPPP 55.04W. Paragraph (3) supersedes RCW 4.28.220.

(b) *Entry of Default Judgment.* As limited in Rule 54(c), judgment after default may be entered as follows, if proof of service is on file as required by paragraph (b)(4):

(1) *When Amount Certain.* When the claim against a party, whose default has been entered under subdivision (a), is for a sum certain or for a sum which can by computation be made certain, the court upon motion and affidavit of the amount due shall enter judgment for that amount and costs against the party in default, if he is not an infant or incompetent person. No judgment by default shall be entered against an infant or incompetent person unless represented by a general guardian or guardian ad litem. Findings of fact and conclusions of law are not necessary under this paragraph even though reasonable attorney fees are requested and allowed.

(2) *When Amount Uncertain.* If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearings as are deemed necessary or, when required by statute, shall have such matters resolved by a jury. Findings of fact and conclusions of law are required under this paragraph.

(3) *When Service by Publication.* In an action where the service of the summons was by publication, or by mail under Rule 4(d)(4), the plaintiff, upon the expiration of the time for answering, may upon proof of service by publication, apply for judgment. The court must thereupon require proof of the demand mentioned in the complaint, and must require the plaintiff or his agent to be examined on oath respecting any payments that have been made to the plaintiff, or to any one for his use on account of such demand, and may render judgment for the amount which he is entitled to recover, or for such other relief as he may be entitled to.

(4) *Costs and Proof of Service.* Costs shall not be awarded and default judgment shall not be rendered unless proof of service is on file with the court.

Comment by the Court. Paragraph (1) follows FRCP 55(b)(1) and supersedes RCW 4.56.160(1). Paragraph (2) follows the third sentence of FRCP 55(b)(2) and supersedes RCW 4.56.160(2). Paragraph (3) follows and supersedes RCW 4.56.160(3).

(c) *Setting Aside Default.* For good cause shown and upon such terms as the court deems just, the court may set aside an entry of default and, if a judgment by default has been entered, may likewise set it aside in accordance with Rule 60(b).

Comment by the Court. Subdivision (c) follows FRCP 55(c) and supersedes RCW 4.56.170.

(d) *Plaintiffs, Counterclaimants, Cross-Claimants.* The provisions of this rule apply whether the party entitled to the judgment by default is a plaintiff, a third-party plaintiff, or a party who has pleaded a cross-claim or counterclaim. In all cases a judgment by default is subject to the limitations of Rule 54(c).

Comment by the Court. Subdivision (d) is identical to FRCP 55(d).

(e) *Judgment Against State.* [Reserved.]

(f) *How Made After Elapse of Year.*

(1) *Notice.* When more than one year has elapsed after service of summons with no appearance being made, the court shall not sign an order of default or enter a judgment until a notice of the time and place of the application for the order or judgment is served on the party in default, not less than 10 days prior to the entry. Proof by affidavit of the service of the notice shall be filed before entry of the judgment.

(2) *Service.* Service of notice of the time and place on the application for the order of default or default judgment shall be made as follows:

(A) by service upon the attorney of record;

(B) if there is no attorney of record, then by service upon the defendant by certified mail with return receipt of said service to be attached to the affidavit in support of the application; or

(C) by a personal service upon the defendant in the same manner provided for service of process.

(D) If service of notice cannot be made under subparagraphs (A) and (C), the notice may be given by publication in a newspaper of general circulation in the county in which the action is pending for one publication, and by mailing a copy to the last known address of each defendant. Both the publication and mailing shall be done 10 days prior to the hearing. [Amended June 13, 1977, effective July 1, 1977; adopted May 5, 1967, effective July 1, 1967.]

Comment by the Court. Subdivision (f) follows and supersedes RPPP 55.08W.

Parallel Tables: 1977 Regular Session Laws—RCW

1977 REGULAR SESSION LAWS

Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.
1	1	Approp.	21	1	60.22.020			n46.68.100	16		27.36.050	84		72.01.320
	2	Approp.	22	1	90.08.040		4	Eff. date	17		28A.03.030	85		72.01.420
	3	Approp.		2	90.08.050			n46.68.100	18		28A.10.025	86		72.60.280
	4	Approp.		3	90.08.060	52	1	28B.40.195	19		28A.91.060	87		75.08.020
	5	Approp.		4	90.08.070	53	1	54.08.010	20		28B.20.130	88		76.04.050
	6	Approp.	23	1	43.88.500		2	54.12.010	21		28B.30.150	89		77.04.060
	7	Approp.		2	43.88.505		3	29.21.010	22		28B.30.215	90		79.24.300
	8	Approp.		3	43.88.510	54	1	90.62.010	23		28B.30.300	91		80.01.090
	9	Approp.		4	43.88.515		2	90.62.020	24		28B.30.310	92		82.01.060
	10	Approp.		5	Sev.		3	90.62.040	25		28B.40.130	93		89.16.050
	11	Approp.			43.88.903		4	90.62.050	26		28B.50.070	94		90.54.070
	12	Approp.	24	1	46.04.500		5	90.62.060	27		28B.50.130	95		90.54.090
	13	Approp.		2	46.61.560		6	90.62.080	28		28B.50.140	96		Repealer
	14	Approp.		3	Em.		7	90.62.090	29		35.21.260	76	1	46.81.005
	15	Approp.	25	1	46.16.090		8	90.62.100	30		36.21.015		2	46.81.010
	16	Approp.		2	46.16.048		9	90.62.130	31		36.75.260		3	46.81.020
	17	Approp.	26	1	82.38.110		10	Sev.	32		38.12.020		4	46.81.070
	18	Approp.		2	82.38.130			90.62.908	33		41.04.060		5	Sev.
	19	Approp.		3	82.38.170	55	1	18.71.020	34		41.05.020			n46.81.005
	20	Approp.		4	82.38.270		2	18.71.200	35		Vetoed	77	1	47.52.145
	21	Approp.	27	1	46.68.041		3	18.71.205	36		43.03.028		2	47.52.135
	22	Em.	28	1	82.36.040		4	18.71.210	37		43.06.140		3	47.52.180
2	1	Approp.		2	82.36.270	56	1	29.81.014	38		43.08.010		4	Em.
	2	Approp.	29	1	47.60.310		1	46.61.587	39		43.08.150	78	1	46.61.350
	3	Approp.	30	1	Repealer		1	18.83.090	40		43.09.050	79	1	68.08.101
	4	Approp.	31	1	72.01.050		1	72.01.120	41		43.09.230		2	68.08.105
	5	Em.		2	72.36.020	60	1	48.23.380	42		43.10.100	80	1	28A.24.080
3	1	Temporary		3	73.04.130		1	48.30.260	43		43.19.090		2	28A.24.100
	2	Temporary		4	73.24.030	61	1	48.34.060	44		43.20.100		3	28A.41.160
	3	Temporary		5	43.60A.075		2	60.68.040	45		43.20A.360		4	Repealer
	4	Approp.		6	Repealer	62	1	36.48.090	46		43.21A.200		5	Sev.
	5	Expir.	32	1	28B.30.600		1	52.12.050	47		43.21A.200			n28A.24.080
	6	Em.		2	28B.30.608	63	1	47.28.050	48		43.22.270	81	1	46.44.020
4	1	84.52.052		3	28B.30.614		1	78.44.120	49		43.22.330		2	46.44.041
	2	84.52.054		4	28B.30.620	66	1	36.33A.010	50		43.23.120		3	Em.
	3	29.27.060		5	Em.	67	1	36.33A.020	51		43.23.130			
	4	Sev.	33	1	84.48.010		2	36.33A.030	52		43.30.200			
		n84.52.052	34	1	36.72.071		3	36.33A.040	53		43.31.050			
	5	Em.		2	36.72.075		4	36.33A.050	54		43.31.160			
5	1	Repealer		3	65.16.091		5	36.33A.060	55		43.31A.330			
	2	Em.		4	65.16.160		6	Leg. dir.	56		43.49.070			
6	1	41.05.020		5	Repealer		7	Repealer	57		43.51.040			
	2	41.06.110	35	1	70.39.060		8	4.24.250	58		43.51.800			
	3	Em.	36	1	70.39.040		1	69.41.030	59		43.56.030			
7	1	43.17.010	37	1	Approp.	68	1	81.40.040	60		43.61.040			
	2	43.17.020		2	Em.	69	1	18.72.040	61		43.62.030			
	3	Em.	38	1	30.08.190		2	18.72.050	62		43.62.050			
8	1	46.16.210	39	1	4.28.185		1	65.08.170	63		43.63A.080			
	2	Em.	40	1	42.26.040		2	65.08.180	64		43.63A.085			
9	1	67.08.003	41	1	53.08.085		3	35.43.260	65		43.125.020			
	2	67.08.015		2	Em.	73	1	28A.58.310	66		46.01.290			
	3	Em.	42	1	36.17.042		1	77.12.010	67		46.52.060			
10	1	70.95.040	43	1	77.32.197		2	Em.	68		47.01.141			
	2	Em.	44	1	77.16.020		1	2.12.050	69		48.02.170			
11	1	47.56.720		2	77.16.030	75	1	2.52.050	70		48.02.180			
12	1	Repealer	45	1	46.37.290		2	4.92.170	71		48.48.110			
13	1	Repealer	46	1	39.34.085		3	9.46.090	72		49.04.010			
14	1	Repealer		2	Em.		4	9.95.265	73		49.12.180			
15	1	45.24.010	47	1	68.04.020		5	14.04.050	74		49.60.100			
	2	Repealer		2	68.04.030		6	15.04.020	75		50.12.010			
16	1	43.08.060		3	68.04.110		7	18.04.100	76		50.12.160			
17	1	43.85.241		4	68.08.245		8	18.18.251	77		51.04.020			
	2	43.84.110	48	1	18.51.170		9	18.43.035	78		51.04.110			
18	1	2.12.050	49	1	19.86.170		10	18.74.120	79		66.08.028			
19	1	34.04.058	50	1	28A.58.242		11	18.88.080	80		67.16.015			
	2	34.04.026	51	1	46.68.100		12	26.32.280	81		67.16.100			
20	1	79.12.610		2	47.56.725		13	27.28.010	82		70.39.130			
	2	Repealer		3	Sev.		14	27.32.010	83		70.40.040			

Parallel Tables: 1977 First Extraordinary Session Laws—RCW

1977 FIRST EXTRAORDINARY SESSION LAWS

Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	
1	1		18.32.915	4	46.44.175	5	54.40.050	9	19.31.200	
	2	37	18.32.500	5	46.16.160	6	54.40.060	10	19.31.245	
	3	6	47.17.520	6	82.50.010	7	54.40.070	52	1	34.04.130
	4	7	28A.58.455	7	36.21.090	8	54.12.010	53	1	10.46.190
	5		Sev.	8	84.60.020	37	1	2	12.12.030	
	6	2	n28A.58.455	9	Repealer	38	1	3	35.20.090	
	7	8	15.28.180	10	Sev.	39	1	54	1	2.40.010
	8	9	66.24.320		n46.04.302	40	2	55	1	7.33.040
	9	2	66.24.330	11	Em.		1	56	1	36.18.010
	10	3	66.24.340	23	1	Approp.	2	57	1	60.04.020
	11	4	66.24.400	24	2	Em.	3	2	Eff. date	
	12	5	66.24.490	24	1	18.85.085	4		n60.04.020	
	13	6	Em.	2	2	18.85.120	5	58	1	77.12.150
	14	10	39.23.020	3	3	18.85.140	6	59	1	77.12.201
	15	2	43.19.530	4	4	18.85.150	7	60	1	46.90.300
	16	11	18.27.040	5	5	18.85.190	8	2	46.90.406	
	17	12	Approp.	6	6	18.85.450	9	3	46.90.415	
	18	2	Em.	7	7	18.85.460	10	4	46.90.427	
	19	13	Special	8	8	18.85.470	11	5	46.90.463	
	20	2	Special	9	9	18.85.480	12	6	46.90.700	
	20	3	Special	25	1	43.88A.010	13	61	1	18.27.060
	20	14	19.27.200	2	2	43.88A.020	14	62	1	70.96A.120
2	1	2	19.27.210	3	43.88A.030	15	43.20A.300	63	1	81.80.300
	2	3	19.27.220	4	43.88A.040	16	74.16.170	64	1	46.44.030
	3	4	19.27.230	5	43.88A.900	17	74.16.181	2	Em.	
	4	5	19.27.240	6	43.41.110	18	74.16.183	65	1	Approp.
	5	6	19.27.250	7	Leg. dir.	19	74.16.190	2	Em.	
	6	7	19.27.260	26	1	15.17.250	20	66	1	18.27.070
3	1	8	19.27.270	2	2	15.49.250	21	2	Eff. date	
	2	9	19.27.280	3	3	15.49.340	22		n18.27.070	
	3	10	19.27.290	4	4	15.65.210	23	67	1	16.54.010
4	1	11	19.27.030	5	5	19.94.190	24	68	1	46.52.030
5	1	12	19.27.040	6	6	17.10.050	25	69	1	49.46.010
	2	13	44.39.038	27	1	Purpose		2	49.46.065	
	3	14	19.27.300			n46.20.114	41	3	Em.	
	4	15	Leg. dir.	2	2	46.20.114	42	70	1	43.31.915
	5	16	19.27.310	28	1	43.52.480	43	2	43.31.920	
	6	17	Sev.	2	2	43.52.490	44	3	43.31.925	
	7		19.27.905	3	3	Em.		4	43.31.930	
	8	15	39.58.150	29	1	Repealer	3	5	43.31.935	
	9	2	Eff. date	2	2	Eff. date	4	6	43.31.040	
	10		n39.58.150			Constr.	5	7	Sev.	
	11	16	Repealer			n84.48.085	6		n43.31.915	
	12	17	Temporary	30	1	43.43.710	7	8	Approp.	
	13	2	Temporary	31	1	54.16.180		9	Em.	
	14	3	Repealer	2	2	Em.	8	71	1	39.12.050
	15	4	Em.	32	1	36.77.060		72	1	8.25.075
	16	18	28B.10.293	33	1	50.04.030	45	2	Em.	
	17	2	Em.	2	2	50.04.355		73	1	50.04.090
	18	19	43.132.010	3	3	50.12.070	3	74	1	49.46.130
	19	2	43.132.020	4	4	50.20.050	4	75	1	43.51.946
	20	3	43.132.030	5	5	50.20.060	5	2	43.51.948	
	21	4	43.132.040	6	6	50.20.100	46	3	43.51.947	
	22	5	43.132.050	7	7	50.20.120	47	4	43.51.949	
	23	6	43.132.060	8	8	50.20.095	48	5	43.51.950	
	24	7	Leg. dir.	9	9	50.24.010	2	6	43.51.951	
	25	8	Vetoed	10	10	50.24.012	49	7	43.51.952	
	26	20	46.37.320	11	11	Eff. dates	2	8	43.51.953	
	27	21	43.22.431			Constr.	3	9	43.51.954	
	28	2	43.22.432			n50.04.030	50	10	43.51.955	
	29	3	43.22.433	34	1	41.40.030	51	11	43.51.956	
	30	4	Constr.	35	1	35.21.755	2	12	Leg. dir.	
	31		n43.22.431	2	2	Eff. date	3	76	1	9.46.020
	32	5	43.22.434			n35.21.755	4	2	9.46.070	
	33	6	43.22.350	36	1	54.40.010	5	77	1	69.50.505
	34	22	46.04.302	2	2	54.40.020	6	78	1	47.12.063
	35	2	46.44.170	3	3	54.40.030	7	2	47.12.066	
	36	3	46.44.173	4	4	54.40.040	8	3	47.52.210	

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Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	
3	31.08.050	72	47.56.254	33	Sev.	20	28B.10.420	103	41.60.010	
4	31.08.070	73	88.16.010		18.44.921	21	28B.10.500	104	43.79.150	
5	31.08.080	74	88.16.020	34	Vetoed	22	28B.10.520	105	43.79.180	
6	31.08.090	75	47.72.050	157	1 54.12.080	23	28B.10.525	106	43.79.304	
7	31.08.150	76	47.98.070	158	1 4.24.350	24	28B.10.550	107	43.79.314	
8	31.08.160	77	Sev.	159	1 76.12.110	25	28B.10.560	108	43.79.324	
9	31.08.173		47.98.080		2 79.64.030	26	28B.10.567	109	43.88.195	
10	31.08.180	78	Constr.	160	1 28A.58.120	27	28B.10.600	110	69.32.030	
11	31.08.190		47.98.090	161	1 79.72.010	28	28B.10.605	111	82.12.030	
12	31.08.200	79	Leg. rev.		2 79.72.020	29	28B.10.640	112	87.25.050	
151	1 47.01.011	80	Repealer		3 79.72.030	30	28B.10.650	113	n28B.10.016	
2	47.01.021	81	Vetoed		4 79.72.040	31	28B.10.700	114	n28B.10.016	
3	47.01.031	152	1 41.06.150		5 79.72.050	32	28B.10.703	115	Repealer	
4	47.01.041	2	41.06.160		6 79.72.060	33	28B.15.005	116	Sev.	
5	47.01.051	3	41.06.163		7 79.72.070	34	28B.15.020		n28B.10.016	
6	47.01.061	4	41.06.165		8 79.72.080	35	28B.15.041	170	1 28A.58.113	
7	47.01.071	5	41.06.167		9 79.72.090	36	28B.15.100	171	1 32.04.060	
8	47.01.081	6	41.06.169		10 79.72.100	37	28B.15.380	172	1 21.20.310	
9	47.01.091	7	Repealer		11 79.72.110	38	28B.15.400	2	21.20.320	
10	47.01.101	8	28B.16.100		12	Sev.	39	28B.15.530	3	21.20.340
11	47.01.111	9	28B.16.101			79.72.900	40	28B.15.600	4	21.20.430
12	47.01.121	10	28B.16.110		13	Leg. dir.	41	28B.16.020	5	Repealer
13	41.06.079	11	28B.16.112	162	1 46.20.031	42	28B.19.020	173	1 28B.10.650	
14	n41.06.079	12	28B.16.113	163	1 48.40.002	43	28B.80.040	2	28B.50.551	
15	Savings	13	28B.16.105		2 48.40.005	44	28B.35.011	3	Sev.	
	n47.01.121	14	Sev.		3 48.40.007	45	28B.35.100		n28B.10.650	
16	Savings		n41.06.150		4 48.40.012	46	28B.35.105	4	Eff. date	
	n47.01.121	15	Vetoed		5 48.40.015	47	28B.35.110		n28B.10.650	
17	n47.01.121	153	1 50.13.010		6 48.40.017	48	28B.35.120	174	1 9A.48.100	
18	47.01.131	2	50.13.020		7 48.40.025	49	28B.35.190	2	9A.56.080	
19	47.04.150	3	50.13.030		8 48.40.035	50	28B.35.200	3	4.24.320	
20	43.17.010	4	50.13.040		9 48.40.045	51	28B.35.205	175	1 70.79.290	
21	43.17.020	5	50.13.050		10 48.40.055	52	28B.35.220	2	70.79.330	
22	47.68.015	6	50.13.060		11 48.40.065	53	28B.35.230	3	70.79.350	
23	47.04.015	7	50.13.070		12 48.40.075	54	28B.35.300	176	1 60.32.020	
24	1.08.120	8	50.13.080		13	Leg. dir.	55	28B.35.305	177	1 39.04.010
25	n47.01.071	9	50.13.090		14	Sev.	56	28B.35.310	178	1 30.04.450
26	47.01.250	10	50.13.100			48.40.900	57	28B.35.315	2	30.04.455
27	47.01.070	11	Constr.	164	1 35.21.152	58	28B.35.350	3	30.04.460	
28	43.63A.070		50.13.900		2 35.92.022	59	28B.35.361	4	30.04.465	
29	46.44.080	12	Repealer	165	1 9.46.235	60	28B.35.380	5	30.12.040	
30	46.44.090	13	Sev.		2 9.46.030	61	28B.35.390	6	30.12.042	
31	46.44.091		50.13.905	166	1 47.60.650	62	28B.35.400	7	30.12.044	
32	46.44.092	14	Leg. dir.		2 47.60.660	63	Leg. dir.	8	30.04.470	
33	46.44.095		50.13.910		3 39.08.090	64	28B.40.010	9	30.04.475	
34	46.61.405	154	1 70.39.150		4 39.08.030	65	28B.40.100	10	30.12.047	
35	46.61.410	155	1 28B.15.553		5 60.28.010	66	28B.40.105	11	Sev.	
36	46.61.415	2	Vetoed		6 82.08.030	67	28B.40.110		n30.04.450	
37	46.61.425	3	28B.15.554		7 82.12.030	68	28B.40.120	179	1 82.08.030	
38	46.61.430	4	Sev.		8 47.60.670	69	28B.40.190	2	82.12.030	
39	46.61.450		n28B.15.553		9	Sev.	70	28B.40.200	3	Eff. date
40	46.61.570	156	1 18.44.010			n47.60.650	71	28B.40.220		n82.08.030
41	46.61.575	2	18.44.020		10	Em.	72	28B.40.230	180	1 48.05.300
42	46.68.120	3	18.44.030	167	1 46.61.562	73	28B.40.300	2	48.12.010	
43	47.05.020	4	18.44.040		2 46.61.563	74	28B.40.305	3	48.12.160	
44	47.05.030	5	18.44.050		3 46.61.564	75	28B.40.310	181	1 84.40.045	
45	47.05.070	6	18.44.070		4 46.61.565	76	28B.40.315	182	1 48.14.010	
46	47.12.010	7	18.44.080		5 46.61.567	77	28B.40.350	2	48.15.070	
47	47.12.060	8	18.44.090		6	Em.	78	28B.40.361	3	48.17.110
48	47.12.070	9	18.44.130	168	1 81.53.400	79	28B.35.370	4	48.17.250	
49	47.12.080	10	18.44.160		2 81.53.410	80	28B.40.380	5	48.17.430	
50	47.12.120	11	18.44.200		3 85.53.420	81	28B.40.390	6	48.17.500	
51	47.12.130	12	18.44.210		4	Leg. dir.	82	28B.35.700	183	1 48.32.145
52	47.12.140	13	18.44.220		5	Em.	83	28B.35.710	2	48.32A.090
53	47.12.150	14	18.44.240	169	1 28B.10.016	84	28B.35.720	3	Repealer	
54	47.12.190	15	18.44.250		2 28B.35.050	85	28B.35.730	184	1 43.52.250	
55	47.12.200	16	18.44.260		3 17.08.020	86	28B.35.750	2	43.52.260	
56	47.12.220	17	18.44.270		4 17.12.060	87	28B.35.751	3	43.52.290	
57	47.24.010	18	18.44.065		5 17.24.110	88	28B.35.760	4	43.52.300	
58	47.26.140	19	18.44.067		6 27.44.020	89	28B.35.770	5	43.52.350	
59	47.28.010	20	18.44.175		7 28B.10.020	90	28B.35.780	6	43.52.360	
60	47.36.020	21	18.44.280		8 28B.10.025	91	28B.35.790	7	43.52.370	
61	47.36.030	22	18.44.290		9 28B.10.050	92	Leg. dir.	8	43.52.391	
62	47.52.027	23	18.44.300		10 28B.10.140	93	39.90.060	9	43.52.410	
63	47.52.139	24	18.44.310		11 28B.10.280	94	40.04.040	10	43.52.430	
64	47.52.150	25	18.44.320		12 28B.10.290	95	40.04.090	11	43.52.450	
65	47.52.180	26	18.44.330		13 28B.10.300	96	40.06.040	12	Repealer	
66	47.56.030	27	18.44.340		14 28B.10.350	97	41.40.515	185	1 43.19.020	
67	47.56.070	28	18.44.350		15 28B.10.400	98	41.40.516	2	43.19.100	
68	47.56.080	29	18.44.215		16 28B.10.405	99	41.40.517	186	1 72.36.030	
69	47.56.090	30	18.44.360		17 28B.10.410	100	41.40.519	2	72.36.040	
70	47.56.120	31	18.44.370		18 28B.10.415	101	41.40.520	3	72.36.060	
71	47.56.250	32	Repealer	19	28B.10.417	102	41.40.521	4	72.36.070	

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Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.
	5 72.36.080		2 24.46.020		10 44.60.130		8 40.06.010		12 42.30.075
	6 72.36.055		3 35.21.800		11 Repealer		9 40.06.020		13 Approp.
	7 72.36.120		4 35.21.805		12 Sev.		10 40.06.030		14 Leg. dir.
	8 72.36.130		5 36.01.120		n44.60.010		11 40.06.040		15 34.08.900
	9 72.36.090		6 36.01.125	219	1 66.04.011		12 Repealer		16 Eff. date
	10 72.36.045		7 53.08.030		2 66.28.010		13 Leg. dir.		n34.08.010
	11 72.36.035		8 Eff. date		3 Vetoed	233	1 18.57A.070	17	Sev.
	12 Sev.		n24.46.010		4 66.24.420		2 18.71A.080		34.08.910
187	1 n72.36.030	197	1 69.50.310	220	1 46.09.020	234	1 11.16.083	241	1 32.04.050
	2 39.16.005	198	1 9.46.110		2 46.09.030		2 11.20.020	2	32.20.010
	3 39.16.020	199	1 51.28.040		3 46.09.040		3 11.20.090	242	1 43.83A.020
188	1 21.20.005	200	1 84.70.020		4 46.09.050		4 11.28.110	2	43.83B.020
	2 21.20.310	201	1 28B.40.205		5 46.09.060		5 11.28.185	3	43.83C.020
	3 21.20.325		2 28B.80.035		6 46.09.070		6 11.28.237	4	43.83D.020
	4 21.20.340		3 Sev.		7 46.09.080		7 11.28.340	5	28B.56.020
189	1 28A.71.200		n28B.80.035		8 46.09.090		8 11.40.030	6	Sev.
	2 28A.71.210	202	1 51.32.073		9 46.09.110		9 11.52.012		n43.83A.020
	3 Leg. dir.		2 51.32.075		10 46.09.120		10 11.52.022	243	1 18.52.010
	4 Sev.	203	1 4.84.330		11 46.09.130		11 11.62.010	2	18.52.070
	n28A.71.200	204	1 18.85.230		12 46.09.140		12 11.62.020	3	18.52.090
190	1 41.05.020		2 46.70.011		13 46.09.150		13 11.64.002	4	18.52.100
	2 Vetoed		3 Repealer		14 46.09.170		14 11.64.008	5	18.52.120
191	1 Special	205	1 60.28.010		15 46.09.180		15 11.64.016	6	18.52.150
	Title 79	206	1 10.94.010		16 46.09.190		16 11.64.022	7	18.52.155
	Sub. Index		2 10.94.020		17 46.09.240		17 11.64.030	244	1 18.51.310
	Special		3 9A.32.040		18 46.09.250		18 11.68.010	245	1 30.04.075
	Title 79		4 9A.32.045		19 46.09.260		19 11.68.030	2	32.04.220
	Sub. Index		5 9A.32.046		20 46.09.270		20 11.68.040	3	33.04.110
	Special		6 9A.32.047		21 67.32.080		21 11.68.050	4	31.12.325
	Title 79		7 10.94.030		22 Repealer		22 11.68.060	5	Repealer
	Sub. Index		8 9.01.200		23 Approp.		23 11.68.070	6	Sev.
192	1 49.60.030		9 Leg. dir.	221	1 36.47.040		24 11.68.080		n30.04.075
193	1 23A.08.100		10 Sev.		2 36.47.070		25 11.68.100	7	Em.
	2 23A.08.130		10.94.900	222	1 19.09.020		26 11.68.110	246	1 30.04.400
	3 23A.08.480		Em.		2 19.09.030		27 11.94.020	2	30.04.405
	4 23A.12.030	207	1 31.13.020		3 19.09.070		28 30.20.020	3	30.04.410
	5 23A.16.040		2 31.13.030		4 19.09.080		29 11.62.005	247	1 43.88.030
	6 23A.16.050		3 31.13.040		5 19.09.090		30 Sev.	2	43.88.060
	7 23A.16.070		4 31.13.050		6 19.09.100		n11.16.083	3	Em.
	8 23A.16.080		5 31.13.010		7 19.09.110		31 Eff. date	248	1 10.46.190
	9 23A.16.100		6 Leg. dir.		8 19.09.180		Applic.	2	12.12.030
	10 23A.16.110		7 Sev.		9 19.09.190		n11.16.083	3	35.20.090
	11 23A.16.120		31.13.900		10 19.09.210		Repealer	249	1 70.115.010
	12 23A.20.040	208	1 87.03.720		11 19.09.220	235	1 n44.40.020	2	70.115.020
	13 23A.20.050		2 87.03.725		12 19.09.260		2 n47.01.071	3	70.115.030
	14 23A.28.010		3 56.02.100		13 19.09.265		3 n47.01.071	4	70.115.040
	15 23A.28.020	209	1 84.36.810		14 19.09.275		4 36.78.070	5	Sev.
	16 23A.28.030		2 84.36.825		15 19.09.280		5 44.40.020		70.115.900
	17 23A.28.040		3 84.36.813		16 19.09.285		6 44.40.025	6	Leg. dir.
	18 23A.28.070	210	1 28A.58.131		17 19.09.370		7 44.40.030	7	Em.
	19 23A.28.080		2 28A.21.310		18 Repealer		8 44.40.040	250	1 48.23.080
	20 23A.28.090		3 Sev.	223	1 28B.50.401		9 44.40.070	2	Constr.
	21 23A.28.110		n28A.58.131		2 28B.50.402		10 44.40.090		n48.23.080
	22 23A.28.120	211	1 70.44.060		3 Leg. dir.		11 44.40.100	251	1 41.50.050
	23 23A.40.040	212	1 43.101.010		4 Sev.		12 44.40.120	2	41.50.080
	24 Em.		2 43.101.200		5 n28B.50.401		13 47.01.220	3	43.33.050
194	1 19.16.120	213	1 35.63.130	224	1 47.17.517		14 47.02.010	4	43.33.070
	2 19.16.351		2 35A.63.170	225	1 47.28.025		15 47.05.040	5	43.84.150
	3 19.16.360		3 36.70.970		2 47.28.026		16 47.17.850	6	43.33.110
195	1 43.51A.010		4 58.17.330		3 47.28.030		17 47.26.160	7	41.50.085
	2 43.51A.020		5 Sev.	226	1 29.04.160		18 Approp.	8	41.26.330
	3 43.51A.030		n35.63.130	227	1 28A.47.830		19 Repealer	9	41.40.077
	4 43.51A.060		47.26.281	228	1 Approp.		20 Em.	10	43.33.130
	5 43.51A.070	214	1 74.04.266		2 4.92.170	236	1 9A.56.095	11	43.33.120
	6 43.51A.080	215	1 47.48.010		3 Em.		2 Repealer	252	1 58.19.185
	7 43.51A.090	216	1 47.48.020		4 39.44.140	237	1 Approp.	253	1 46.80.005
	8 43.51A.100		2 47.48.040	229	1 75.28.455		2 Approp.	2	46.80.010
	9 43.51A.110		3 81.75.010	230	1 75.28.500		3 Sev.	3	46.80.020
	10 43.51A.120	217	1 81.75.020		2 75.28.505		4 Em.	4	46.80.030
	11 43.51A.130		2 81.75.030		3 75.28.510	238	1 29.71.020	5	46.80.070
	12 27.53.020		3 81.75.030		4 75.28.535		2 29.71.040	6	46.80.080
	13 27.53.030		4 Leg. dir.		5 75.28.540	239	1 51.04.030	7	46.80.090
	14 27.53.060		5 Sev.		6 9.61.160	240	1 34.08.010	8	46.80.100
	15 27.53.080		81.75.900	231	1 9.61.180		2 1.08.110	9	46.80.110
	16 27.53.090	218	1 44.60.010		2 9.61.180		3 34.08.020	10	46.80.150
	17 43.51A.040		2 44.60.020		3 Em.		4 34.08.030	11	46.80.170
	18 43.51A.050		3 44.60.040	232	1 40.07.010		5 34.08.040	12	Repealer
	19 43.51A.140		4 44.60.050		2 40.07.020		6 34.08.050	13	Constr.
	20 Sev.		5 44.60.070		3 40.07.030		7 34.04.025		46.80.900
	n43.51A.010		6 44.60.080		4 40.07.040		8 34.04.030	14	Sev.
	Leg. dir.		7 44.60.100		5 40.07.050		9 34.04.050		n46.80.005
	Repealer		8 44.60.110		6 40.07.060		10 28B.19.030	254	1 46.76.065
196	1 24.46.010	9	44.60.120		7 27.04.037		11 28B.19.040	255	1 28A.58.420

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	2	19.106.020	10	11.88.125	23	35.24.290	12	28B.35.361	14	75.28.640
	3	19.106.030	11	11.88.140	24	35.27.240	13	28B.15.710	15	75.28.650
	4	19.106.040	12	11.88.150	25	35.27.370	14	Repealer	16	75.28.660
	5	19.106.050	13	11.92.040	26	Sev.	15	28B.15.800	17	75.28.670
	6	19.106.060	14	11.92.190		n70.48.010	16	Leg. dir.	18	75.08.085
	7	19.106.070	15	11.92.125	27	Repealer	17	Sev.	19	75.32.020
	8	19.106.080	16	11.92.170	28	Approp.		n28B.15.060	20	75.32.030
	9	Exp. date	17	Repealer	29	Em.	18	Em.	21	75.32.051
	10	30.04.900	18	Sev.	317 1	82.36.010	323 1	51.04.040	22	75.32.055
	11	30.04.505		n11.88.005	2	82.36.020	2	51.04.070	23	75.32.033
	12	30.04.510	310 1	18.18.260	3	82.36.100	3	51.08.018	24	75.32.035
	13	30.04.515	2	18.18.140	4	82.37.030	4	51.08.030	25	75.32.003
	14	49.60.175	311 1	2.08.061	5	82.38.030	5	51.08.175	26	75.32.065
	15	Leg. dir.	2	2.08.062	6	82.36.025	6	51.08.178	27	75.32.080
	16	Leg. dir.	3	2.08.064	7	35.77.010	7	51.12.020	28	75.32.090
302	1	7.68.010	4	2.08.065	8	46.68.090	8	51.12.110	29	75.32.101
	2	7.68.020	5	Approp.	9	46.68.100	9	51.14.020	30	75.32.110
	3	7.68.050	6	Eff. date	10	46.68.115	10	51.14.030	31	75.32.115
	4	7.68.060		n2.08.061	11	46.68.150	11	51.16.060	32	Repealer
	5	7.68.070	312 1	43.03.050	12	47.26.040	12	51.16.110	33	75.08.230
	6	7.68.075	2	43.03.060	13	47.26.180	13	51.16.120	34	Sev.
	7	7.68.110	3	43.03.063	14	47.26.190	14	51.32.030		n75.18.100
	8	7.68.130	4	43.03.065	15	47.26.240	15	51.32.073	35	Eff. date
	9	7.68.065	5	Eff. date	16	47.26.270	16	51.32.095		n75.18.100
	10	7.68.035		Constr.	17	47.26.405	17	51.32.110	328 1	43.21G.010
	11	Repealer		n43.03.050	18	47.26.420	18	51.32.150	2	43.21G.020
	12	7.68.905	313 1	42.17.020	19	47.26.424	19	51.32.220	3	43.21G.030
303	1	28A.02.110	2	42.17.030	20	47.26.425	20	51.36.030	4	43.21G.040
304	1	20.01.010	3	42.17.060	21	47.26.4251	21	51.44.040	5	43.21G.050
	2	20.01.030	4	42.17.160	22	47.26.080	22	51.48.020	6	43.21G.060
	3	20.01.060	5	42.17.170	23	Sev.	23	51.48.050	7	43.21G.070
	4	20.01.080	6	42.17.190		n82.36.010	24	51.48.070	8	43.21G.080
	5	20.01.086	7	Repealer	24	Eff. dates	25	51.04.105	9	43.21G.090
	6	20.01.210	8	Sev.		n82.36.010	26	51.04.085	10	Vetoed
	7	20.01.212		n42.17.020	318 1	43.03.010	27	51.16.190	11	43.06.200
	8	20.01.330	9	Eff. date	2	2.04.090	28	Repealer	12	43.06.210
	9	20.01.370		n42.17.020	3	2.06.060	29	Sev.	13	44.39.010
	10	20.01.385	314 1	10.97.010	4	2.08.090		n51.04.040	14	44.39.015
	11	20.01.430	2	10.97.020	5	3.58.010	30	Eff. date	15	44.39.020
	12	20.01.445	3	10.97.030	6	Approp.		n51.04.040	16	44.39.025
	13	20.01.480	4	10.97.040	7	Eff. date	324 1	82.04.2901	17	44.39.060
	14	20.01.500	5	10.97.050		n43.03.010	2	82.08.020	18	44.39.070
	15	20.01.550	6	10.97.060	319 1	19.02.010	3	82.12.020	19	Repealer
	16	20.01.211	7	10.97.070	2	19.02.020	4	Em.	20	Sev.
305	1	28A.58.090	8	10.97.080	3	19.02.030	325 1	84.52.052		n43.21G.010
	2	28A.58.092	9	10.97.090	4	19.02.040	2	84.52.054	21	Em.
306	1	43.51.940	10	10.97.100	5	19.02.050	3	84.52.053	329 1	29.24.010
	2	43.51.942	11	10.97.110	6	19.02.060	4	84.52.0531	2	29.24.020
	3	43.51.943	12	10.97.120	7	19.02.070	5	Sev.	3	29.24.030
	4	43.51.944	13	42.17.310	8	82.24.220		n84.52.052	4	29.24.040
	5	n43.51.940	14	43.43.705	9	Repealer	6	Eff. date	5	29.24.050
	6	43.51.945	15	43.43.710	10	Sev.		n84.52.052	6	29.24.060
	7	Leg. dir.	16	43.43.730		19.02.900	326 1	9.46.020	7	29.24.070
	8	Repealer	17	43.43.810	11	Eff. date	2	9.46.030	8	29.24.075
	9	Approp.	18	Leg. dir.		19.02.910	3	9.46.070	9	29.01.090
		n43.51.940	315 1	nCh. 43.94	320 1	43.88.280	4	9.46.080	10	29.18.020
307	1	13.06.050	2	Dig.	2	43.88.290	5	9.46.100	11	29.18.110
	2	Temporary		nCh. 43.94	3	43.88.300	6	9.46.115	12	29.18.150
	3	Eff. date	3	Dig.	4	43.88.310	7	9.46.140	13	29.18.160
		n13.06.050	4	Approp.	5	43.88.320	8	9.46.180	14	29.30.080
308	1	75.48.010	316 1	Vetoed	6	Eff. date	9	9.46.185	15	29.30.100
	2	75.48.020	2	70.48.010		n43.88.280	10	9.46.190	16	29.42.010
	3	75.48.030	3	70.48.020	321 1	74.38.010	11	9.46.192	17	29.85.105
	4	75.48.040	4	70.48.030	2	74.38.020	12	9.46.193	18	Repealer
	5	75.48.050	4	70.48.040	3	74.38.040	13	9.46.196	19	Em.
	6	75.48.060	5	70.48.050	4	74.38.050	14	9.46.198	330 1	43.51.055
	7	75.48.070	6	70.48.060	5	74.38.061	15	9.46.210	331 1	28B.50.142
	8	75.48.080	7	70.48.070	6	Approp.	16	9.46.230	2	28B.50.143
	9	75.48.090	8	70.48.080	7	Termination date	17	9.46.300	3	28B.15.031
	10	75.48.100	9	70.48.090		n74.38.010	18	Em.	4	Sev.
	11	75.48.110	10	70.48.100		74.38.010	327 1	75.18.100		n28B.15.031
	12	Leg. dir.	11	70.48.110	322 8	Em.	2	75.18.110	5	Eff. date
	13	Em.	12	70.48.120	1	28B.15.060	3	75.18.080		n28B.15.031
309	1	11.88.005	13	70.48.130	2	28B.15.100	4	75.28.460	332 1	82.44.020
	2	11.88.010	14	70.48.140	3	28B.15.201	5	75.28.095	2	82.44.110
	3	11.88.030	15	70.48.150	4	28B.15.401	6	75.28.130	3	Sev.
	4	11.88.040	16	70.48.160	5	28B.15.500	7	75.28.140		n82.44.020
	5	11.88.045	17	70.48.170	6	28B.15.065	8	75.28.190	4	Eff. date
	6	11.88.090	18	Leg. dir.	7	28B.15.070	9	75.28.220		n82.44.020
	7	11.88.100	19	35.21.330	8	28B.15.075	10	75.28.600	333 1	Approp.
	8	11.88.107	20	35.22.280	9	28B.15.620	11	75.28.610	2	Approp.
	9	11.88.120	21	35.23.440	10	28B.15.380	12	75.28.620	3	Approp.
			22	35.24.160	11	28B.40.361	13	75.28.630	4	Approp.

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	5 Sev.	4 Approp.	82 Approp.		158 Approp.				n28B.59B.010
	6 Em.	5 Approp.	83 Approp.		159 Approp.			12	Em.
334	1 46.01.011	6 Approp.	84 Approp.		160 Approp.			347	1 82.04.291
	2 46.01.020	7 Approp.	85 Approp.		161 Approp.				2 84.33.060
	3 46.01.061	8 Approp.	86 Approp.		162 Approp.				3 84.33.080
	4 46.01.170	9 Approp.	Par. veto		163 Approp.				4 Em.
	5 43.17.010	10 Approp.	87 Approp.		164 Vetoed			348	1 84.36.047
	6 43.17.020	11 Approp.	88 Approp.		165 Approp.				2 84.36.048
	7 Repealer	12 Approp.	89 Approp.		165A Approp.				3 Eff. date
	8 Eff. date	13 Approp.	90 Approp.		166 Approp.				Constr.
	n46.01.011	14 Approp.	91 Approp.		166A Approp.				n84.36.047
335	1 82.38.075	15 Approp.	92 Approp.		167 Approp.			4	Leg. dir.
	2 Eff. date	16 Approp.	93 Approp.		168 Approp.			349	1 28C.50.010
	n82.38.075	17 Approp.	94 Approp.		169 Approp.				2 28C.50.020
336	1 42.17.040	18 Approp.	Par. veto		170 Approp.				3 28C.50.030
	2 42.17.090	19 Approp.	95 Approp.		171 Approp.				4 28C.50.040
	3 42.17.095	20 Approp.	96 Approp.		171A Approp.				5 28C.50.050
	4 42.17.242	21 Approp.	97 Approp.		172 Approp.				6 28C.50.060
	5 42.17.243	22 Approp.	98 Approp.		173 Savings				7 Leg. dir.
	6 42.17.125	23 Approp.	99 Approp.		174 Sev.				8 Sev.
	7 42.17.370	24 Approp.	100 Approp.		175 Em.				28C.50.900
	8 Sev.	25 Approp.	101 Approp.		340 1 28A.67.020				9 Em.
	n42.17.040	Par. veto	102 Approp.		341 1 28A.97.010			350	1 51.04.010
337	1 88.16.005	26 Approp.	103 Approp.		2 28A.97.020				2 51.04.030
	2 88.16.010	27 Approp.	104 Approp.		3 28A.97.030				3 51.04.060
	3 88.16.020	Par. veto	105 Approp.		4 28A.97.040				4 51.04.070
	4 88.16.035	28 Approp.	106 Approp.		5 28A.97.050				5 51.04.090
	5 88.16.050	Par. veto	107 Approp.		6 Leg. dir.				6 51.04.100
	6 88.16.070	29 Approp.	107A Approp.		7 Sev.				7 51.04.110
	7 88.16.090	30 Approp.	107B Approp.		n28A.97.010				8 51.08.013
	8 88.16.150	31 Approp.	108 Approp.		342 1 43.83H.100				9 51.08.015
	9 88.16.103	32 Approp.	109 Approp.		2 43.83H.110				10 51.08.020
	10 88.16.105	33 Approp.	110 Approp.		3 43.83H.120				11 51.08.050
	11 88.16.155	34 Approp.	Par. veto		4 43.83H.130				12 51.08.070
	12 88.16.100	35 Approp.	110A Vetoed		5 43.83H.140				13 51.08.160
	13 88.16.120	36 Approp.	111 Approp.		6 43.83H.150				14 51.08.178
	14 88.16.130	37 Approp.	112 Approp.		7 Sev.				15 51.08.180
	15 88.16.107	38 Approp.	113 Approp.		43.83H.910				16 51.08.185
	16 88.16.200	39 Approp.	114 Approp.		8 Em.				17 51.12.035
	17 Repealer	40 Approp.	115 Approp.		343 1 43.83I.100				18 51.12.050
	18 Sev.	41 Approp.	116 Approp.		2 43.83I.110				19 51.12.060
	n88.16.005	42 Approp.	117 Approp.		3 43.83I.120				20 51.12.090
	Vetoed	43 Approp.	Par. veto		4 43.83I.130				21 51.12.100
338	1 Approp.	44 Approp.	118 Approp.		5 43.83I.140				22 51.12.110
	2 Approp.	45 Approp.	119 Approp.		6 43.83I.150				23 51.12.120
	3 Approp.	46 Approp.	120 Approp.		7 Sev.				24 51.16.035
	4 Approp.	47 Approp.	121 Approp.		43.83I.910				25 51.16.042
	5 Approp.	48 Approp.	122 Approp.		8 Em.				26 51.16.060
	6 Approp.	49 Approp.	123 Approp.		344 1 28B.31.010				27 51.16.105
	7 Approp.	50 Approp.	124 Approp.		2 28B.31.020				28 51.16.120
	Par. veto	51 Approp.	125 Approp.		3 28B.31.030				29 51.16.140
	8 Approp.	52 Approp.	126 Approp.		4 28B.31.040				30 Vetoed
	9 Approp.	53 Approp.	127 Approp.		5 28B.31.050				31 51.24.020
	10 Approp.	54 Approp.	128 Approp.		6 28B.31.060				32 51.28.010
	11 Approp.	55 Approp.	129 Approp.		7 28B.31.070				33 51.28.020
	12 Approp.	56 Approp.	130 Approp.		8 28B.31.080				34 51.28.055
	13 Approp.	57 Approp.	131 Approp.		9 28B.31.090				35 51.28.060
	14 Approp.	58 Approp.	132 Approp.		10 28B.31.100				36 51.28.070
	15 Approp.	59 Approp.	133 Approp.		11 Leg. dir.				37 51.32.010
	16 Approp.	60 Approp.	134 Approp.		12 Sev.				38 51.32.015
	17 Approp.	61 Approp.	135 Approp.		n28B.31.010				39 51.32.020
	18 Approp.	62 Approp.	136 Approp.		13 Em.				40 51.32.030
	19 Approp.	63 Approp.	137 Approp.		345 1 28B.14B.010				41 51.32.040
	20 Approp.	64 Approp.	138 Approp.		2 28B.14B.020				42 51.32.050
	21 Approp.	Par. Veto	139 Approp.		3 28B.14B.030				43 51.32.055
	22 Approp.	65 Approp.	140 Approp.		4 28B.14B.040				44 51.32.060
	23 Approp.	66 Approp.	141 Approp.		5 28B.14B.050				45 51.32.073
	24 Approp.	67 Approp.	142 Approp.		6 28B.14B.060				46 51.32.080
	25 Approp.	68 Approp.	143 Approp.		7 Leg. dir.				47 51.32.090
	26 Approp.	69 Approp.	144 Approp.		8 Sev.				48 51.32.095
	27 Approp.	70 Approp.	145 Approp.		n28B.14B.010				49 51.32.100
	28 Approp.	71 Approp.	146 Approp.		9 Em.				50 51.32.110
	29 Approp.	72 Approp.	147 Approp.		346 1 28B.59B.010				51 51.32.120
	30 Approp.	Par. veto	148 Approp.		2 28B.59B.020				52 51.32.135
	31 Approp.	73 Approp.	149 Approp.		3 28B.59B.030				53 51.32.180
	32 Approp.	74 Approp.	150 Approp.		4 28B.59B.040				54 51.32.190
	33 Approp.	75 Approp.	151 Approp.		5 28B.59B.050				55 51.32.210
	34 Approp.	76 Approp.	152 Approp.		6 28B.59B.060				56 51.36.010
	35 Sev.	77 Approp.	153 Approp.		7 28B.59B.070				57 51.36.020
	36 Eff. date	78 Approp.	154 Approp.		8 28B.59B.080				58 51.36.030
339	1 Approp.	79 Approp.	155 Approp.		9 28B.59B.090				59 51.36.040
	2 Approp.	80 Approp.	156 Approp.		10 Leg. dir.				60 51.36.070
	3 Approp.	81 Approp.	157 Approp.		11 Sev.				61 51.40.010

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	62 51.40.020	19	46.37.215	13	Sev.	97	29.62.100	21	Em.
	63 51.40.030	20	46.37.220		n47.60.560	98	29.64.010	372 1	67.16.101
	64 51.40.040	21	46.37.240	14	Em.	99	29.64.020	2	67.16.102
	65 51.40.050	22	46.37.260	361 1	29.01.006	100	29.64.060	3	Sev.
	66 51.40.060	23	46.37.270	2	29.04.020	101	29.65.010		n67.16.101
	67 51.40.070	24	46.37.280	3	29.04.030	102	29.65.020	373 1	44.48.010
	68 51.44.110	25	46.37.320	4	29.04.040	103	29.65.040	2	44.48.020
	69 51.48.010	26	46.37.330	5	29.04.055	104	29.65.055	3	44.48.030
	70 51.48.050	27	46.37.340	6-24	Ref. #39	105	29.79.200	4	44.48.040
	71 51.48.060	28	46.37.360		Failed to	106	29.80.010	5	44.48.050
	72 51.48.070	29	46.37.365		become law	107	29.82.090	6	44.48.060
	73 51.48.105	30	46.37.369	25	Leg. dir.	108	29.82.100	7	44.48.070
	74 51.52.010	31	46.37.375	26	29.10.040	109	29.82.140	8	44.48.080
	75 51.52.050	32	46.37.380	27	29.10.080	110	29.85.200	9	44.48.090
	76 51.52.060	33	46.37.390	28	29.10.120	111	Repealer	10	44.48.100
	77 51.52.070	34	46.37.400	29	29.13.070	112	Sev.	11	44.48.110
	78 51.52.095	35	46.37.410	30	29.18.040		n29.01.006	12	44.48.120
	79 51.52.100	36	46.37.424	31	29.21.060	113	Eff. date	13	44.48.130
	80 51.52.110	37	46.37.425	32	29.21.330		n29.01.006	14	44.48.140
	81 51.52.120	38	46.37.440	33	29.30.310	362 1	15.60.005	15	Leg. dir.
	82 51.52.130	39	46.37.465	34	29.30.320	2	15.60.015	16	Sev.
351 1	68.05.040	40	46.37.480	35	29.30.330	3	15.60.030		44.48.900
2	68.05.050	41	46.37.500	36	29.30.340	4	15.60.040	17	Em.
3	68.05.180	42	46.37.510	37	29.30.350	5	15.60.050		
4	68.05.230	43	46.37.513	38	29.30.360	6	15.60.110		
5	68.46.090	44	46.37.517	39	29.30.370	7	15.60.100		
6	68.46.120	45	46.37.522	40	29.30.380	8	15.60.025		
7	Sev.	46	46.37.523	41	29.30.390	9	15.60.043		
	n68.05.040	47	46.37.524	42	29.30.410	10	15.60.045		
352 1	69.41.100	48	46.37.525	43	29.30.420	11	Sev.		
2	69.41.110	49	46.37.527	44	29.30.430		15.60.900		
3	69.41.120	50	46.37.528	45	29.30.440	363 1	9.73.030	1	90.66.010
4	69.41.130	51	46.37.529	46	29.30.450	2	9.73.060	2	90.66.020
5	69.41.140	52	46.37.537	47	29.30.460	3	9.73.090	3	90.66.030
6	69.41.150	53	46.37.539	48	29.30.470	4	9.73.110	4	90.66.040
7	69.41.160	54	Repealer	49	29.30.480	5	9.73.120	5	90.66.050
8	69.41.170	55	46.37.530	50	29.30.490	6	9.73.130	6	90.66.060
9	69.41.180	56	46.37.535	51	29.30.010	7	9.73.140	7	90.66.070
10	Sev.	57	Sev.	52	29.30.020	364 1	84.36.410	8	90.66.080
	n69.41.100		n46.37.010	53	29.30.030	365 1	28B.20.382	9	Constr.
	Leg. dir.	356 1	46.52.120	54	29.30.040	2	Em.	10	90.66.900
353 1	27.12.360	2	46.52.130	55	29.30.060	366 1	54.28.010	11	Sev.
2	27.12.370	3	48.30.310	56	29.30.075	2	54.28.020		90.66.910
3	27.12.380	357 1	90.03.120	57	29.30.061	3	54.28.030		Leg. dir.
4	27.12.390	2	90.03.130	58	29.30.101	4	54.28.050		
5	27.12.010	3	Em.	59	29.30.071	5	54.28.090		
6	Leg. dir.	358 1	90.58.140	60	29.30.081	6	54.28.025		
354 1	28B.14C.010	359 1	28A.58.750	61	29.30.091	7	54.28.055		
2	28B.14C.020	2	28A.58.752	62	29.33.180	367 1	87.03.440		
3	28B.14C.030	3	28A.58.754	63	29.33.210	368 1	82.16.050	1	7.48.050
4	28B.14C.040	4	28A.41.130	64	29.33.220	369 1	46.29.060	2	7.48.052
5	28B.14C.050	5	28A.41.140	65	29.34.010	2	46.52.030	3	7.48.054
6	28B.14C.060	6	28A.41.160	66	29.34.080	370 1	18.85.010	4	7.48.056
7	28B.14C.070	7	28A.41.162	67	29.34.125	2	18.85.095	5	7.48.058
8	28B.14C.080	8	28A.41.145	68	29.34.130	3	18.85.120	6	7.48.060
9	28B.14C.090	9	28A.02.201	69	29.34.143	4	18.85.140	7	7.48.062
10	28B.14C.100	10	28A.44.080	70	29.34.145	5	18.85.150	8	7.48.064
11	28B.14C.110	11	28A.44.085	71	29.34.153	6	18.85.155	9	7.48.066
12	28B.14C.120	12	28A.44.040	72	29.34.157	7	18.85.161	10	7.48.068
13	28B.14C.130	13	28A.45.050	73	29.34.163	8	18.85.215	11	7.48.070
14	28B.14C.140	14	28A.58.190	74	29.34.167	9	18.85.110	12	7.48.072
15	Sev.	15	36.33.110	75	29.34.170	10	Temp.	13	7.48.074
	28B.14C.900	16	28A.58.756	76	29.36.010	371 1	Vetoed	14	7.48.076
16	Leg. dir.	17	28A.01.130	77	29.36.030	2	80.50.020	15	7.48.078
17	Em.	18	28A.58.758	78	29.36.060	3	80.50.030	16	7.48.080
355 1	46.37.010	19	28A.58.760	79	29.39.170	4	80.50.040	17	7.48.085
2	46.37.020	20	Repealer	80	29.48.020	5	80.50.060	18	7.48.090
3	46.37.030	21	Sev.	81	29.48.030	6	80.50.080	19	7.48.100
4	46.37.040		n28A.58.750	82	29.48.035	7	Vetoed	20	Sev.
5	46.37.050	22	Eff. date	83	29.51.125	8	80.50.100		7.48.900
6	46.37.060		n28A.58.750	84	29.54.010	9	Vetoed		
7	46.37.070	360 1	47.60.560	85	29.54.035	10	80.50.120		
8	46.37.080	2	47.60.570	86	29.54.040	11	80.50.140		
9	46.37.090	3	47.60.580	87	29.54.045	12	80.50.150		
10	46.37.110	4	47.60.590	88	29.54.050	13	80.50.175		
11	46.37.120	5	47.60.600	89	29.54.060	14	80.50.180		
12	46.37.140	6	47.60.610	90	29.54.070	15	80.50.190		
13	46.37.150	7	47.60.620	91	29.54.080	16	80.50.071	1	82.08.030
14	46.37.160	8	47.60.630	92	29.54.130	17	80.50.075	2	82.12.030
15	46.37.170	9	47.60.640	93	29.54.140	18	Approp.	3	Eff. date
16	46.37.196	10	47.60.505	94	29.54.170	19	Repealer		n82.08.030
17	46.37.200	11	Approp.	95	29.54.180	20	Sev.		
18	46.37.210	12	Leg. dir.	96	29.62.090		80.50.902		

DISPOSITION OF FORMER RCW SECTIONS

Title 6 ENFORCEMENT OF JUDGMENTS

Chapter 6.12 HOMESTEADS

6.12.290 "Head of family" defined. [1973 1st ex.s. c 154 § 11; 1971 ex.s. c 292 § 5; 1933 c 36 § 1; 1895 c 64 § 25; RRS § 553.] Repealed by 1977 1st ex.s. c 98 § 5.

Chapter 6.36 UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS ACT

6.36.020 Registration of judgment. [1953 c 191 § 2.] Repealed by 1977 1st ex.s. c 45 § 4.

6.36.030 Application for registration. [1953 c 191 § 3.] Repealed by 1977 1st ex.s. c 45 § 4.

6.36.040 Personal jurisdiction. [1953 c 191 § 4.] Repealed by 1977 1st ex.s. c 45 § 4.

6.36.050 Notice in absence of personal jurisdiction. [1953 c 191 § 5.] Repealed by 1977 1st ex.s. c 45 § 4.

6.36.060 Levy. [1953 c 191 § 6.] Repealed by 1977 1st ex.s. c 45 § 4.

6.36.070 New personal judgment. [1953 c 191 § 7.] Repealed by 1977 1st ex.s. c 45 § 4.

6.36.080 Defenses. [1953 c 191 § 8.] Repealed by 1977 1st ex.s. c 45 § 4.

6.36.090 Pendency of appeal. [1953 c 191 § 9.] Repealed by 1977 1st ex.s. c 45 § 4.

6.36.100 Effect of setting aside registration. [1953 c 191 § 10.] Repealed by 1977 1st ex.s. c 45 § 4.

6.36.110 Appeal. [1953 c 191 § 11.] Repealed by 1977 1st ex.s. c 45 § 4.

6.36.120 New judgment quasi in rem. [1953 c 191 § 12.] Repealed by 1977 1st ex.s. c 45 § 4.

Title 7 SPECIAL PROCEEDINGS AND ACTIONS

Chapter 7.68 VICTIMS OF CRIMES—COMPENSATION

7.68.040 Civil actions against state and jurisdiction of courts abolished. [1973 1st ex.s. c 122 § 4.] Repealed by 1977 1st ex.s. c 302 § 11.

Title 8 EMINENT DOMAIN

Chapter 8.12 EMINENT DOMAIN BY CITIES

8.12.180 Infants or insane persons—Guardian ad litem. [1907 c 153 § 14; RRS § 9228. Prior: 1905 c 55 § 14; 1893 c 84 § 14.] Repealed by 1977 1st ex.s. c 80 § 11.

Title 9 CRIMES AND PUNISHMENTS

Chapter 9.81 SUBVERSIVE ACTIVITIES

9.81.130 Attorney general—Report and recommendations. [1951 c 254 § 9.] Repealed by 1977 c 75 § 96.

Title 9A WASHINGTON CRIMINAL CODE

Chapter 9A.56 THEFT AND ROBBERY

9A.56.090 Presumption on failure to return vehicle, machinery, or equipment pursuant to rental or lease agreement. [1975 1st ex.s. c 260 § 9A.56.090.] Repealed by 1977 1st ex.s. c 236 § 2.

Title 11 PROBATE LAW AND PROCEDURE—1965 ACT

Chapter 11.76 SETTLEMENT OF ESTATES

11.76.140 Allowance of claims must precede payment. [1965 c 145 § 11.76.140. Prior: 1917 c 156 § 173; RRS § 1543.] Repealed by 1977 1st ex.s. c 234 § 32.

Chapter 11.88 GUARDIANSHIP—APPOINTMENT, QUALIFICATION, REMOVAL OF GUARDIANS AND LIMITED GUARDIANS

11.88.035 Petition—Investigation and report. [1975 1st ex.s. c 95 § 8.] Repealed by 1977 1st ex.s. c 309 § 17.

Title 13 JUVENILE COURTS AND JUVENILE DELINQUENTS

Chapter 13.04 JUVENILE COURTS

13.04.010 Juvenile court law—Dependent and delinquent children defined—Wards of state. [1961 c 302 § 1; 1913 c 160 § 1; RRS § 1987-1. Prior: 1909 c 190 § 1; 1905 c 18 § 1. Formerly RCW 13.04.010 and 13.04.020.] Repealed by 1977 1st ex.s. c 291 § 81, effective July 1, 1978.

13.04.053 Notice to parent or guardian that child taken into custody—Time limitation on detention—Responsibility of juvenile court. [1973 1st ex.s. c 101 § 1; 1961 c 302 § 2.] Repealed by 1977 1st ex.s. c 291 § 81, effective July 1, 1978.

13.04.056 Informal disposition of case by probation officer—Review by juvenile judge. [1961 c 302 § 3.] Repealed by 1977 1st ex.s. c 291 § 81, effective July 1, 1978.

13.04.060 Petition to take charge of child. [1977 1st ex.s. c 291 § 32; 1913 c 160 § 5; RRS § 1987-5.] Decodified and recodified as RCW 13.34.040 pursuant to 1977 1st ex.s. c 291 § 50, effective July 1, 1978.

13.04.070 Summons—Hearing. [1977 1st ex.s. c 291 § 35; 1913 c 160 § 6; RRS § 1987-6.] Decodified and recodified as RCW 13.34.070 pursuant to 1977 1st ex.s. c 291 § 50, effective July 1, 1978.

13.04.080 Publication of summons. [1977 1st ex.s. c 291 § 36; 1961 c 302 § 4; 1913 c 160 § 7; RRS § 1987-7.] Decodified and recodified as RCW 13.34.080 pursuant to 1977 1st ex.s. c 291 § 50, effective July 1, 1978.

13.04.091 Hearings—Time and place—Not generally public—Notes and records. [1977 1st ex.s. c 291 § 39; 1961 c 302 § 5. Prior: 1913 c 160 § 10, part; RCW 13.04.090, part.] Decodified and recodified as RCW 13.34.110 pursuant to 1977 1st ex.s. c 291 § 50, effective July 1, 1978.

13.04.095 Commitment of child—Order of court—Powers of department of social and health services—Rescinding of commitment. [1975-'76 2nd ex.s. c 71 § 2; 1967 c 137 § 1; 1961 c 302 § 6.] Repealed by 1977 1st ex.s. c 291 § 81, effective July 1, 1978.

13.04.100 Commitment of child—Order may be temporary, modified, etc.—Financial support of child. [1977 1st ex.s. c 291 § 44;

1969 ex.s. c 138 § 1; 1961 c 302 § 7; 1913 c 160 § 8; RRS § 1987-8.] Decodified and recodified as RCW 13.34.160 pursuant to 1977 1st ex.s. c 291 § 50, effective July 1, 1978.

13.04.105 Judgment for financial support. [1977 1st ex.s. c 291 § 45; 1961 c 302 § 8; 1955 c 188 § 1.] Decodified and recodified as RCW 13.34.170 pursuant to 1977 1st ex.s. c 291 § 50, effective July 1, 1978.

13.04.110 Award and adoption of child. [1913 c 160 § 9; RRS § 1987-9.] Repealed by 1977 1st ex.s. c 291 § 81, effective July 1, 1978.

13.04.120 Arrest of juvenile—Hearing—Traffic violations. [1959 c 58 § 1; 1945 c 132 § 1; 1913 c 160 § 12; Rem. Supp. 1945 § 1987-12.] Repealed by 1977 1st ex.s. c 291 § 81, effective July 1, 1978.

13.04.140 Construction. [1913 c 160 § 14; RRS § 1987-14.] Repealed by 1977 1st ex.s. c 291 § 81, effective July 1, 1978.

13.04.150 Modification of orders. [1977 1st ex.s. c 291 § 43; 1913 c 160 § 15; RRS § 1987-15.] Decodified and recodified as RCW 13.34.150 pursuant to 1977 1st ex.s. c 291 § 50, effective July 1, 1978.

13.04.170 Contributing to delinquency—Penalty—Bond. [1953 c 116 § 1. Prior: 1913 c 160 § 17; RRS § 1987-17.] Repealed by 1977 1st ex.s. c 291 § 81, effective July 1, 1978.

13.04.190 Commitment of delinquent to department of institutions—Notice of placement by director to be given court and parents or guardian. [1961 c 302 § 10. Prior: 1959 c 251 § 2, part; 1957 c 297 § 4, part; RCW 13.08.190, part.] Repealed 1977 1st ex.s. c 291 § 81, effective July 1, 1978.

13.04.200 Director of institutions may place incorrigible juvenile delinquents over sixteen in reformatory—Duration—Definition. [1977 1st ex.s. c 80 § 16; 1961 c 302 § 12; 1959 c 251 § 2; 1957 c 297 § 4. Formerly RCW 13.08.190, part.] Repealed by 1977 1st ex.s. c 291 § 81, effective July 1, 1978.

13.04.210 Petition for court review of director's decision on institutional placement or transfer—Filing, service. [1961 c 302 § 13. Prior: 1957 c 297 § 5; RCW 13.08.200.] Repealed by 1977 1st ex.s. c 291 § 81, effective July 1, 1978.

13.04.220 Court may modify, set aside secretary's decision on placement or transfer—Appeal. [1971 c 81 § 54; 1961 c 302 § 14. Prior: 1957 c 297 § 6; RCW 13.08.210.] Repealed by 1977 1st ex.s. c 291 § 81, effective July 1, 1978.

13.04.230 Probation officer's investigation record and report withheld from public inspection—Who may inspect—Destruction. [1961 c 302 § 15. Prior: 1913 c 160 § 10, part; RCW 13.04.090, part.] Repealed by 1977 1st ex.s. c 291 § 81, effective July 1, 1978.

13.04.250 Destruction of files of juveniles committed to department of institutions upon attaining majority—Exceptions. [1967 c 93 § 1.] Repealed by 1977 1st ex.s. c 291 § 81, effective July 1, 1978.

13.04.260 Commitment of delinquent beyond age twenty-one prohibited—Jurisdiction of juvenile court. [1975 1st ex.s. c 170 § 1.] Decodified and recodified as RCW 13.40.300 pursuant to 1977 1st ex.s. c 291 § 80, effective July 1, 1978.

Title 14 AERONAUTICS

Chapter 14.04 AERONAUTICS COMMISSION

14.04.010 Statement of policy. [1947 c 165 § 2; Rem. Supp. 1947 § 10964-82.] Recodified as RCW 47.68.010 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.020 Definitions. [1947 c 165 § 1; Rem. Supp. 1947 § 10964-81.] Recodified as RCW 47.68.020 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.030 State aeronautics commission—Created—Membership—Expenses—Removal. [1975-'76 2nd ex.s. c 34 § 9; 1967 c 68 § 1; 1947 c 165 § 3; Rem. Supp. 1947 § 10964-83. Prior: 1945 c 252 § 1; Rem. Supp. 1945 § 10964-60.] Repealed by 1977 1st ex.s. c 151 § 80.

14.04.040 Director of aeronautics—Qualifications—Salary—Travel expenses—Duties. [1975-'76 2nd ex.s. c 34 § 10; 1967 c 68 § 2; 1961 c 289 § 1; 1947 c 165 § 4; Rem. Supp. 1947 § 10964-84. Prior: 1945 c 252; Rem. Supp. 1945 §§ 10964-60—10964-68.] Repealed by 1977 1st ex.s. c 151 § 80.

14.04.050 Organization of commission—Officers—Quorum—Meetings. [1977 c 75 § 6; 1947 c 165 § 5; Rem. Supp. 1947 § 10964-85. Prior: 1945 c 252 § 5; Rem. Supp. 1945 § 10964-64.] Repealed by 1977 1st ex.s. c 151 § 80.

14.04.060 Offices. [1947 c 165 § 6; Rem. Supp. 1947 § 10964-86.] Recodified as RCW 47.68.060 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.070 General powers. [1947 c 165 § 7; Rem. Supp. 1947 § 10964-87.] Recodified as RCW 47.68.070 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.080 Drafts of legislation, other duties. [1947 c 165 § 8; 1945 c 252 § 5; Rem. Supp. 1947 § 10964-88.] Recodified as RCW 47.68.080 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.090 Aid to municipalities, Indian tribes—Federal aid. [1975 1st ex.s. c 161 § 1; 1947 c 165 § 9; Rem. Supp. 1947 § 10964-89.] Recodified as RCW 47.68.090 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.100 Acquisition and disposal of airports, facilities, etc. [1947 c 165 § 10; Rem. Supp. 1947 § 10964-90.] Recodified as RCW 47.68.100 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.110 Zoning powers not interfered with. [1947 c 165 § 11; Rem. Supp. 1947 § 10964-91.] Recodified as RCW 47.68.110 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.120 Condemnation, how exercised. [1947 c 165 § 12; Rem. Supp. 1947 § 10964-92.] Recodified as RCW 47.68.120 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.130 Contracts or leases of facilities in operating airports. [1947 c 165 § 13; Rem. Supp. 1947 § 10964-93.] Recodified as RCW 47.68.130 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.140 Lease of airports. [1947 c 165 § 14; Rem. Supp. 1947 § 10964-94.] Recodified as RCW 47.68.140 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.150 Lien for state's charges. [1947 c 165 § 15; Rem. Supp. 1947 § 10964-95.] Recodified as RCW 47.68.150 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.160 Acceptance of federal moneys. [1947 c 165 § 16; 1945 c 252 § 7; Rem. Supp. 1947 § 10964-96.] Recodified as RCW 47.68.160 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.170 State airways system. [1947 c 165 § 17; Rem. Supp. 1947 § 10964-97.] Recodified as RCW 47.68.170 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.180 Execution of necessary contracts. [1947 c 165 § 18; Rem. Supp. 1947 § 10964-98.] Recodified as RCW 47.68.180 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.185 Establishment of procedures required by conditions of federal transfers of facilities. [1963 c 73 § 1.] Recodified as RCW 47.68.185 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.190 Exclusive grants prohibited. [1947 c 165 § 19; Rem. Supp. 1947 § 10964-99.] Recodified as RCW 47.68.190 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.200 Exercise of powers is public and governmental purpose. [1947 c 165 § 20; Rem. Supp. 1947 § 10964-100.] Recodified as RCW 47.68.200 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.210 Rules and regulations—Standards. [1947 c 165 § 21; Rem. Supp. 1947 § 10964-101.] Recodified as RCW 47.68.210 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.220 Operating aircraft recklessly or under influence of intoxicants or drugs. [1947 c 165 § 22; Rem. Supp. 1947 § 10964-102.] Recodified as RCW 47.68.220 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.230 Aircraft and airman certificates required. [1967 ex.s. c 68 § 2; 1967 ex.s. c 9 § 7; 1949 c 49 § 11; 1947 c 165 § 23; Rem. Supp. 1949 § 10964-103.] Recodified as RCW 47.68.230 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.233 Registration of pilots—Certificates—Fees—Exemptions—Use of fees. [1967 c 207 § 2.] Recodified as RCW 47.68.233 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.236 Aircraft search and rescue, safety and education fund—Created—Moneys from registration of pilots deposited in. [1967 c 207 § 3.] Recodified as RCW 47.68.236 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.240 Penalties for violations. [1947 c 165 § 24; Rem. Supp. 1947 § 10964-104.] Recodified as RCW 47.68.240 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.250 Registration of aircraft. [1967 ex.s. c 9 § 8; 1955 c 150 § 11; 1949 c 49 § 12; 1947 c 165 § 25; Rem. Supp. 1949 § 10964-105.] Recodified as RCW 47.68.250 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.260 Airport sites—Certificates of approval. [1947 c 165 § 26; Rem. Supp. 1947 § 10964-106.] Repealed by 1977 1st ex.s. c 319 § 9.

14.04.270 Licensing of airports. [1947 c 165 § 27; Rem. Supp. 1947 § 10964-107.] Repealed by 1977 1st ex.s. c 319 § 9.

14.04.280 Investigations, hearings, etc.—Subpoenas—Compelling attendance. [1947 c 165 § 28; Rem. Supp. 1947 § 10964-108.] Recodified as RCW 47.68.280 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.290 Joint hearings—Cooperation. [1947 c 165 § 29; Rem. Supp. 1947 § 10964-109.] Recodified as RCW 47.68.290 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.300 State and municipal agencies to cooperate. [1947 c 165 § 30; Rem. Supp. 1947 § 10964-110.] Recodified as RCW 47.68.300 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.310 Enforcement of aeronautics laws. [1955 c 204 § 1; 1947 c 165 § 31; Rem. Supp. 1947 § 10964-111.] Recodified as RCW 47.68.310 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.320 Service of orders—Hearings—Review. [1947 c 165 § 32; Rem. Supp. 1947 § 10964-112.] Recodified as RCW 47.68.320 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.330 Exchange of data, reports of violations, etc. [1947 c 165 § 33; Rem. Supp. 1947 § 10964-113.] Recodified as RCW 47.68.330 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.340 Marking hazardous structures and obstacles—Hearing to determine hazard. [1961 c 263 § 2.] Recodified as RCW 47.68.340 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.350 Marking hazardous structures and obstacles—Reporting location of hazardous structures or obstacles—Subpoenas. [1961 c 263 § 3.] Recodified as RCW 47.68.350 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.360 Marking hazardous structures and obstacles—Exemption of structures required by federal law to be marked. [1961 c 263 § 4.] Recodified as RCW 47.68.360 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.370 Washington wing civil air patrol—Declaration of public purpose—Consultation, cooperation and contracts with commission. [1975-'76 2nd ex.s. c 73 § 1.] Recodified as RCW 47.68.370 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.900 Severability—1947 c 165. [1947 c 165 § 35.] Recodified as RCW 47.68.900 pursuant to 1977 1st ex.s. c 151 § 79.

14.04.910 Short title. [1947 c 165 § 37.] Recodified as RCW 47.68.910 pursuant to 1977 1st ex.s. c 151 § 79.

Title 15 AGRICULTURE AND MARKETING

Chapter 15.14 PLANTING STOCK

15.14.090 Permit to make commercial planting in a planting stock area. [1961 c 83 § 9.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

Chapter 15.32 DAIRIES AND DAIRY PRODUCTS

15.32.696 Annual publication of information by department. [1961 c 11 § 15.32.696. Prior: 1955 c 343 § 3. Formerly RCW 15.34.030.] Repealed by 1977 c 75 § 96.

Chapter 15.60 APIARIES

15.60.160 Annual report of director. [1961 c 11 § 15.60.160. Prior: 1933 ex.s. c 59 § 9; RRS § 3170-9.] Repealed by 1977 c 75 § 96.

Chapter 15.64 FARM MARKETING

15.64.020 Annual report of director. [1961 c 11 § 15.64.020. Prior: 1917 c 119 § 4; RRS 2877.] Repealed by 1977 c 75 § 96.

Chapter 15.67 AGRICULTURAL CONSERVATION PLANS—1953 ACT

15.67.010 Soil conservation and domestic allotment act—Designation of agency to administer state plan. [1961 c 11 § 15.67.010. Prior: 1953 c 153 § 1. Formerly RCW 15.68.160.] Repealed by 1977 c 30 § 1.

15.67.020 State plan—Formulation and submission—Purposes—Required provisions. [1961 c 11 § 15.67.020. Prior: 1953 c 153 § 2. Formerly RCW 15.68.170.] Repealed by 1977 c 30 § 1.

15.67.030 Federal grants-in-aid—Acceptance, uses. [1961 c 11 § 15.67.030. Prior: 1953 c 153 § 3. Formerly RCW 15.68.180.] Repealed by 1977 c 30 § 1.

15.67.040 Agricultural contingent receipts fund. [1961 c 11 § 15.67.040. Prior: 1953 c 153 § 4. Formerly RCW 15.68.190.] Repealed by 1977 c 30 § 1.

15.67.050 Employment of agents—Establishment of subordinate agencies—Purposes. [1961 c 11 § 15.67.050. Prior: 1953 c 153 § 5. Formerly RCW 15.68.200.] Repealed by 1977 c 30 § 1.

15.67.060 Delegation of powers. [1961 c 11 § 15.67.060. Prior: 1953 c 153 § 6. Formerly RCW 15.68.210.] Repealed by 1977 c 30 § 1.

15.67.070 Annual report. [1961 c 11 § 15.67.070. Prior: 1953 c 153 § 7. Formerly RCW 15.68.220.] Repealed by 1977 c 30 § 1.

Chapter 15.68 AGRICULTURAL CONSERVATION PLANS—1937 ACT

15.68.010 Acceptance of federal act—Limitations on powers. [1961 c 11 § 15.68.010. Prior: 1937 c 175 § 2; RRS § 3040-2.] Repealed by 1977 c 30 § 1.

15.68.020 Washington State University named sole state agent. [1961 c 11 § 15.68.020. Prior: 1937 c 175 § 4; RRS § 3040-4.] Repealed by 1977 c 30 § 1.

15.68.030 Duty to formulate state plans annually. [1961 c 11 § 15.68.030. Prior: 1937 c 175 § 5, part; RRS § 3040-5, part.] Repealed by 1977 c 30 § 1.

15.68.040 Plan contents—Voluntary organization participation—Education. [1961 c 11 § 15.68.040. Prior: 1937 c 175 § 5, part; RRS § 3040-5, part.] Repealed by 1977 c 30 § 1.

15.68.050 Plan contents—Acreage utilization—Agreements. [1961 c 11 § 15.68.050. Prior: 1937 c 175 § 5, part; RRS § 3040-5, part.] Repealed by 1977 c 30 § 1.

15.68.060 Plan contents—Expenditure estimates—Federal aid. [1961 c 11 § 15.68.060. Prior: 1937 c 175 § 5, part; RRS § 3040-5, part.] Repealed by 1977 c 30 § 1.

15.68.070 Use of funds by university—Limitations. [1961 c 11 § 15.68.070. Prior: 1937 c 175 § 6, part; RRS § 3040-6, part.] Repealed by 1977 c 30 § 1.

15.68.080 Administration expenses. [1961 c 11 § 15.68.080. Prior: 1937 c 175 § 6, part; RRS § 3040-6, part.] Repealed by 1977 c 30 § 1.

15.68.090 Separate system of accounts by university. [1961 c 11 § 15.68.090. Prior: 1937 c 175 § 6, part; RRS § 3040-6, part.] Repealed by 1977 c 30 § 1.

15.68.100 Services of other state agencies. [1961 c 11 § 15.68.100. Prior: 1937 c 175 § 7, part; RRS § 3040-7, part.] Repealed by 1977 c 30 § 1.

15.68.110 Administrative rules—Employees—Duties—Compensation. [1961 c 11 § 15.68.110. Prior: 1937 c 175 § 7, part; RRS § 3040-7, part.] Repealed by 1977 c 30 § 1.

15.68.120 Districts—Communities—Revising boundaries. [1961 c 11 § 15.68.120. Prior: 1937 c 175 § 8; RRS § 3040-8.] Repealed by 1977 c 30 § 1.

15.68.130 Community and district committees. [1961 c 11 § 15.68.130. Prior: 1937 c 175 § 9; RRS § 3040-9.] Repealed by 1977 c 30 § 1.

15.68.140 Farmer advisory board—Member election and qualifications. [1971 ex.s. c 292 § 13; 1961 c 11 § 15.68.140. Prior: 1937 c 175 § 10; RRS § 3040-10.] Repealed by 1977 c 30 § 1.

15.68.150 Reports by university—Investigations. [1961 c 11 § 15.68.150. Prior: 1937 c 175 § 11; RRS § 3040-11.] Repealed by 1977 c 30 § 1.

15.68.160 through 15.68.220 Agricultural conservation plans—1953 act. [1953 c 153 §§ 1-7.] Recodified as RCW 15.67.010 through 15.67.070. RCW 15.67.010 through 15.67.070 subsequently repealed by 1977 c 30 § 1.

15.68.900 Short title. [1961 c 11 § 15.68.900. Prior: 1937 c 175 § 1; RRS § 3040-1.] Repealed by 1977 c 30 § 1.

Title 16

ANIMALS, ESTRAYS, BRANDS AND FENCES

Chapter 16.44 DISEASES OF SHEEP

16.44.100 Moving infected sheep—Permit—Damages—Penalty. [1927 c 165 § 22; RRS § 3131. Prior: See Reviser's note to RCW 16.44.020.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

16.44.170 Annual report to governor. [1927 c 165 § 30; RRS § 3139. Prior: See Reviser's note to RCW 16.44.020.] Repealed by 1977 c 75 § 96.

Chapter 16.72 FUR FARMING

16.72.050 Registration required. [1955 c 321 § 6.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

Title 18 BUSINESSES AND PROFESSIONS

Chapter 18.04 ACCOUNTANCY

18.04.110 Annual report. [1949 c 226 § 10; Rem. Supp. 1949 § 8269-17.] Repealed by 1977 c 75 § 96.

18.04.210 Advancement of public accountant to L.P.A. [1949 c 226 § 20; Rem. Supp. 1949 § 8269-27.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

18.04.230 Public accountants' registration committee. [1975-'76 2nd ex.s. c 34 § 26; 1949 c 226 § 22; Rem. Supp. 1949 § 8269-29.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

Chapter 18.28 DEBT ADJUSTING

18.28.010 Definitions. [1970 ex.s. c 97 § 1; 1967 c 201 § 1.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.020 License required. [1967 c 201 § 2.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.030 Application for license, form, contents—Investigation fees—Licensing fees—Bond—Qualifications—Forms to be furnished. [1975 1st ex.s. c 30 § 23; 1971 ex.s. c 266 § 6; 1967 c 201 § 3.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.040 Bond requirements—Security in lieu of bond. [1967 c 201 § 4.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.050 Action on bond or security. [1967 c 201 § 5.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.060 Applicants for licenses—Requirements. [1971 ex.s. c 292 § 20; 1967 ex.s. c 141 § 1; 1967 c 201 § 6.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.070 Licenses—Form—Contents—Display—Transferability. [1967 c 201 § 7.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.080 Fees for debt adjusting services—Limitations—Requirements. [1967 ex.s. c 141 § 2; 1967 c 201 § 8.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.090 Excess charges—Contract void—Return of payments. [1967 c 201 § 9.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.100 Contract requirements. [1967 c 201 § 10.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.110 Licensees—Functions required to be performed. [1967 c 201 § 11.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.120 Licensees—Prohibited acts. [1967 c 201 § 12.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.130 Legal services—Rendering or obtaining—Using name of attorney—Prohibited. [1967 c 201 § 13.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.140 Assignment of wages not prohibited. [1967 c 201 § 14.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.150 Payments by debtor to be kept in trust account—Disbursements. [1967 c 201 § 15.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.160 Revocation of licenses—Grounds. [1967 c 201 § 16.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.170 Rules, orders, decisions, etc. [1967 c 201 § 17.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.180 Administrative procedure act to govern administration. [1967 c 201 § 18.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.190 Violations—Penalty. [1967 c 201 § 19.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.200 Violations may be enjoined. [1967 c 201 § 20.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.210 Violations—Assurance of discontinuance—Effect. [1967 c 201 § 21.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.220 Violation of injunction—Civil penalty. [1967 c 201 § 22.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.900 Contracts prior to effective date not invalidated. [1967 c 201 § 23.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.28.910 Severability—1967 c 201. [1967 c 201 § 24.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

Chapter 18.32 DENTISTRY

18.32.060 Board—Annual report to governor. [1957 c 52 § 24. Prior: 1935 c 112 § 11, part; RRS § 10031-11, part.] Repealed by 1977 c 75 § 96.

18.32.240 Refusal, revocation and suspension of licenses—Notice, place of hearing. [1957 c 52 § 32. Prior: 1935 c 112 § 9, part; RRS § 10031-9, part.] Repealed by 1977 1st ex.s. c 5 § 33.

18.32.250 Refusal, revocation and suspension of licenses—Subpoenas, evidence. [1957 c 52 § 33. Prior: 1935 c 112 § 9, part; RRS § 10031-9, part.] Repealed by 1977 1st ex.s. c 5 § 33.

18.32.260 Refusal, revocation and suspension of licenses—Conduct of hearings—Findings. [1957 c 52 § 34; 1953 c 93 § 6. Prior: 1935 c 112 § 9, part; RRS § 10031-9, part.] Repealed by 1977 1st ex.s. c 5 § 33.

18.32.270 Refusal, revocation and suspension of licenses—Director's order—Appeal to superior court. [1957 c 52 § 35. Prior: 1935 c 112 § 9, part; RRS § 10031-9, part.] Repealed by 1977 1st ex.s. c 5 § 33.

18.32.280 Refusal, revocation and suspension of licenses—Appeal to supreme court or court of appeals. [1971 c 81 § 59; 1957 c 52 § 36. Prior: 1935 c 112 § 9, part; RRS § 10031-9, part.] Repealed by 1977 1st ex.s. c 5 § 33.

Chapter 18.44 ESCROW AGENT REGISTRATION ACT

18.44.230 Applicant for examination—Requirements. [1973 1st ex.s. c 163 § 1; 1971 ex.s. c 245 § 10.] Repealed by 1977 1st ex.s. c 156 § 32.

Chapter 18.82 PROPRIETARY SCHOOLS

18.82.010 Declaration of purposes—Liberal construction. [1967 ex.s. c 72 § 1.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.82.020 Definitions. [1967 ex.s. c 72 § 2.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.82.030 Registration required—Fee—Forms—Contents. [1975 1st ex.s. c 30 § 70; 1967 ex.s. c 72 § 3.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.82.040 Cancellation of enrollment by student—Return of materials—Refund. [1967 ex.s. c 72 § 4.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.82.050 Conduct, practices and information dissemination required of proprietary schools. [1967 ex.s. c 72 § 5.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.82.060 Agents' permits. [1975 1st ex.s. c 30 § 71; 1967 ex.s. c 72 § 6.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.82.070 Rules and regulations—Advisory committee. [1967 ex.s. c 72 § 7.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.82.080 Unfair acts or practices. [1967 ex.s. c 72 § 8.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.82.090 Notes, negotiable instruments, or contracts for payment of courses—Unenforceable unless compliance with chapter. [1967 ex.s. c 72 § 9.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.82.900 Short title. [1967 ex.s. c 72 § 11.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.82.910 Effective date—1967 ex.s. c 72. [1967 ex.s. c 72 § 13.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

18.82.920 Severability—1967 ex.s. c 72. [1967 ex.s. c 72 § 12.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

Chapter 18.85 REAL ESTATE BROKERS AND SALESMEN

18.85.410 Sale of used mobile homes by licensees. [1973 1st ex.s. c 60 § 1.] Repealed by 1977 1st ex.s. c 204 § 3.

Title 19 BUSINESS REGULATIONS—MISCELLANEOUS

Chapter 19.09 CHARITABLE SOLICITATIONS

19.09.120 Notice of intention to solicit—Short form report. [1974 ex.s. c 106 § 4; 1973 1st ex.s. c 13 § 12.] Repealed by 1977 1st ex.s. c 222 § 18.

19.09.130 Short form report—Form—Requirements. [1973 1st ex.s. c 13 § 13.] Repealed by 1977 1st ex.s. c 222 § 18.

19.09.330 Local codes, ordinances, and regulations. [1973 1st ex.s. c 13 § 33.] Repealed by 1977 1st ex.s. c 222 § 18.

Chapter 19.44 GRIST MILLS

19.44.010 Duties of owners and operators. [Code 1881 § 2533; RRS § 5844. Prior: 1863 p 493 § 2; 1854 p 398 § 2.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

19.44.020 Assistance in carrying grist. [Code 1881 § 2536; RRS § 5847. Prior: 1863 p 494 § 5; 1854 p 398 § 5.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

19.44.030 Limit of liability for loss. [Code 1881 § 2534; RRS § 5845. Prior: 1863 p 493 § 3; 1854 p 398 § 3.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

19.44.040 Tolls. [Code 1881 § 2532; RRS § 5843. Prior: 1863 p 493 § 1; 1854 p 398 § 1.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

19.44.050 Violations and penalties. [Code 1881 § 2535; RRS § 5846. Prior: 1863 p 494 § 4; 1854 p 398 § 4.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

Title 21 SECURITIES AND INVESTMENTS

Chapter 21.20 SECURITIES ACT OF WASHINGTON

21.20.335 Interest charged by broker-dealers—Margin account debit balances. [1975 1st ex.s. c 84 § 26.] Repealed by 1977 1st ex.s. c 172 § 5.

Title 27 LIBRARIES, MUSEUMS AND HISTORICAL ACTIVITIES

Chapter 27.53 ARCHAEOLOGICAL SITES AND RESOURCES

27.53.050 Archaeological site recorded on state or federal register deemed archaeological resource—Consent of landowner—Recording. [1975 1st ex.s. c 134 § 5.] Repealed by 1977 1st ex.s. c 195 § 22.

**Title 28A
COMMON SCHOOL PROVISIONS**

**Chapter 28A.21
EDUCATIONAL SERVICE DISTRICTS—
SUPERINTENDENT—BOARDS**

28A.21.0301 ESD board—Members—Elections, time of, call and notice, conduct. [1974 ex.s. c 75 § 2.] Repealed by 1977 1st ex.s. c 283 § 25.

28A.21.0302 ESD board—Members—Elections, filing of candidacy, certification of names. [1975 1st ex.s. c 275 § 4; 1974 ex.s. c 75 § 3.] Repealed by 1977 1st ex.s. c 283 § 25.

28A.21.070 ESD superintendent—Appointment, term, salary, discharge. [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.] Repealed by 1977 1st ex.s. c 283 § 25.

28A.21.080 ESD superintendent—Qualifications. [1975 1st ex.s. c 275 § 15; 1971 ex.s. c 282 § 10; 1969 ex.s. c 176 § 8. Formerly RCW 28.19.535.] Repealed by 1977 1st ex.s. c 283 § 25.

**Chapter 28A.24
SCHOOL TRANSPORTATION**

28A.24.090 Local boards to cooperate in establishing routes and determining costs. [1969 ex.s. c 223 § 28A.24.090. Prior: 1965 ex.s. c 154 § 8. Formerly RCW 28.24.090.] Repealed by 1977 c 80 § 4.

28A.24.150 Safe walk-ways in lieu of bus route or bus run—Reimbursement of costs, when. [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.] Repealed by 1977 c 80 § 4.

**Chapter 28A.45
EXCISE TAX ON REAL ESTATE SALES**

28A.45.040 Duty of counties to make payments to school districts—Tax on real estate sales in lieu. [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.] Repealed by 1977 1st ex.s. c 359 § 20, effective September 1, 1978.

**Chapter 28A.65
SCHOOL DISTRICT BUDGETS**

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-'76 2nd ex.s. c 15 § 13.] Repealed by 1977 c 5 § 1. [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.

28A.65.100 Adoption of budget—Second class districts to forward for review. [1975-'76 2nd ex.s. c 15 § 14.] Repealed by 1977 c 5 § 1. [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.

28A.65.120 Certification and filing of budgets. [1975-'76 2nd ex.s. c 15 § 15.] Repealed by 1977 c 5 § 1. [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.

28A.65.150 Second class districts—Emergency expenditures. [1975-'76 2nd ex.s. c 15 § 16.] Repealed by 1977 c 5 § 1. [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.

**Chapter 28A.67
TEACHERS—GENERAL PROVISIONS**

28A.67.100 Powers relative to behavior of pupils. [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.

[1977 RCW Supp—p A32]

Formerly RCW 28.67.100.] Repealed by 1977 1st ex.s. c 359 § 20, effective September 1, 1978.

**Title 28B
HIGHER EDUCATION**

**Chapter 28B.10
COLLEGES AND UNIVERSITIES GENERALLY**

28B.10.015 "State colleges" and "institutions of higher education" defined for certain purposes. [1969 ex.s. c 223 § 28B.10.015.] Repealed by 1977 1st ex.s. c 169 § 115.

**Chapter 28B.15
COLLEGE AND UNIVERSITY FEES**

28B.15.200 Fees—University of Washington—Minimum. [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.] Repealed by 1977 1st ex.s. c 322 § 14.

28B.15.300 Fees—Washington State University—Minimum. [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.] Repealed by 1977 1st ex.s. c 322 § 14.

28B.15.400 Fees—State colleges. [1977 1st ex.s. c 169 § 38; 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.] Repealed by 1977 1st ex.s. c 322 § 14.

28B.15.630 Additional fee for programs leading to graduate degree. [1971 ex.s. c 279 § 23.] Repealed by 1977 1st ex.s. c 322 § 14.

**Chapter 28B.30
WASHINGTON STATE UNIVERSITY**

28B.30.320 Regents to inspect land forming grant—Reports—Expenses. [1969 ex.s. c 223 § 28B.30.320. Prior: 1899 c 9 § 3; RRS § 7851. Formerly RCW 28.80.245.] Repealed by 1977 c 75 § 96.

**Chapter 28B.40
STATE COLLEGES**

28B.40.115 Trustees—Joint trustees' meetings. [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.] Repealed by 1977 1st ex.s. c 169 § 115.

28B.40.130 Trustees—Reports by board. [1977 c 75 § 25; 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).] Repealed by 1977 1st ex.s. c 169 § 115.

28B.40.205 Degrees through master's degrees authorized—Limitations. [1975 1st ex.s. c 232 § 1.] Repealed by 1977 1st ex.s. c 169 § 115.

Reviser's note: This section was also amended by 1977 1st ex.s. c 201 § 1 without cognizance of its repeal and reenactment by 1977 1st ex.s. c 169; see RCW 28B.35.205.

28B.40.225 Degree of doctor of philosophy in education authorized—Effective date—Program limitation. [1969 ex.s. c 196 § 2. Formerly RCW 28.81.055.] Repealed by 1977 1st ex.s. c 169 § 115.

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. [1977 1st ex.s. c 169 § 79; 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.] Recodified as RCW 28B.35.370 pursuant to 1977 1st ex.s. c 169 § 92.

28B.40.400 Meetings of presidents. [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.] Repealed by 1977 1st ex.s. c 169 § 115.

28B.40.700 Construction, remodeling, improvement, financing, etc.—Authorized. [1977 1st ex.s. c 169 § 82; 1969 ex.s. c 223 § 28B.40.700. Prior: 1967 c 47 § 12; 1961 ex.s. c 14 § 1. Formerly RCW 28.81.500.] Recodified as RCW 28B.35.700 pursuant to 1977 1st ex.s. c 169 § 92.

28B.40.710 Definitions. [1977 1st ex.s. c 169 § 83; 1969 ex.s. c 223 § 28B.40.710. Prior: 1967 c 47 § 13; 1961 ex.s. c 14 § 2. Formerly RCW 28.81.510.] Recodified as RCW 28B.35.710 pursuant to 1977 1st ex.s. c 169 § 92.

28B.40.720 Contracts, issuance of evidences of indebtedness, bonds, acceptance of grants. [1977 1st ex.s. c 169 § 84; 1969 ex.s. c 223 § 28B.40.720. Prior: 1961 ex.s. c 14 § 3. Formerly RCW 28.81.520.] Recodified as RCW 28B.35.720 pursuant to 1977 1st ex.s. c 169 § 92.

28B.40.730 Bonds—Issuance, sale, form, term, interest, etc.—Covenants—Deposit of proceeds. [1977 1st ex.s. c 169 § 85; 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.] Recodified as RCW 28B.35.730 pursuant to 1977 1st ex.s. c 169 § 92.

28B.40.740 Cross-reference section. Decodified.

28B.40.750 Funds payable into bond retirement funds—Pledge of general tuition fees. [1977 1st ex.s. c 169 § 86; 1969 ex.s. c 223 § 28B.40.750. Prior: 1961 ex.s. c 14 § 6. Formerly RCW 28.81.550.] Recodified as RCW 28B.35.750 pursuant to 1977 1st ex.s. c 169 § 92.

28B.40.751 Disposition of certain normal school fund revenues. [1977 1st ex.s. c 169 § 87; 1969 ex.s. c 223 § 28B.40.751. Prior: 1967 c 47 § 15; 1965 c 76 § 1. Formerly RCW 28.81.551.] Recodified as RCW 28B.35.751 pursuant to 1977 1st ex.s. c 169 § 92.

28B.40.760 Additional powers of board—Issuance of bonds, investments, transfer of funds, etc. [1977 1st ex.s. c 169 § 88; 1969 ex.s. c 223 § 28B.40.760. Prior: 1961 ex.s. c 14 § 7. Formerly RCW 28.81.560.] Recodified as RCW 28B.35.760 pursuant to 1977 1st ex.s. c 169 § 92.

28B.40.770 Refunding bonds. [1977 1st ex.s. c 169 § 89; 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.] Recodified as RCW 28B.35.770 pursuant to 1977 1st ex.s. c 169 § 92.

28B.40.780 Bonds not general obligation—Legislature may provide additional means of payment. [1977 1st ex.s. c 169 § 90; 1969 ex.s. c 223 § 28B.40.780. Prior: 1961 ex.s. c 14 § 9. Formerly RCW 28.81.580.] Recodified as RCW 28B.35.780 pursuant to 1977 1st ex.s. c 169 § 92.

28B.40.790 Other laws not repealed or limited. [1977 1st ex.s. c 169 § 91; 1969 ex.s. c 223 § 28B.40.790. Prior: 1961 ex.s. c 14 § 10. Formerly RCW 28.81.590.] Recodified as RCW 28B.35.790 pursuant to 1977 1st ex.s. c 169 § 92.

Chapter 28B.50 COMMUNITY COLLEGE ACT OF 1967 (AND COMMUNITY COLLEGES GENERALLY)

28B.50.570 Pension plans to continue for faculty and nonacademic personnel—Payments for—Option for new faculty—Study report for pension plans for faculty. [1973 c 62 § 23.] Repealed by 1977 1st ex.s. c 282 § 8. [1969 ex.s. c 223 § 28B.50.570. Prior: 1967 ex.s. c 8 § 57. Formerly RCW 28.85.570.] Repealed by 1973 1st ex.s. c 149 § 7, effective July 1, 1974.

Reviser's note: Section 7, chapter 149, Laws of 1973 1st ex.s. which repealed RCW 28B.50.570 reads in the last paragraph thereof:

"Such repeals shall not be construed as affecting any existing right acquired under the provisions of the statutes repealed; nor any rule, regulation, or order adopted pursuant thereto, nor as affecting any proceeding instituted thereunder." [1973 1st ex.s. c 149 § 7.]

28B.50.590 Sharing of single facility by community college program and K-12 program—Administration and control—Share of expenses, arbitration of. [1969 ex.s. c 223 § 28B.50.590. Prior: 1967 ex.s. c 8 § 59. Formerly RCW 28.85.590.] Repealed by 1977 1st ex.s. c 282 § 8.

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. [1969 ex.s. c 223 § 28B.50.750. Prior: 1967 ex.s. c 8 § 75. Formerly RCW 28.85.750.] Repealed by 1977 1st ex.s. c 282 § 8.

Chapter 28B.56

1972 COMMUNITY COLLEGES FACILITIES AID—BOND ISSUE

28B.56.060 List of projects to be funded—Planning funds, limitations on. [1972 ex.s. c 133 § 6.] Repealed by 1977 1st ex.s. c 282 § 8.

Chapter 28B.80

COUNCIL FOR POSTSECONDARY EDUCATION IN THE STATE OF WASHINGTON

28B.80.100 Reports. [1975 1st ex.s. c 132 § 8; 1969 ex.s. c 277 § 11. Formerly RCW 28.89.100.] Repealed by 1977 c 75 § 96.

Chapter 28B.81

COMMISSION ON HIGHER EDUCATION

28B.81.090 Travel expenses. [1975-'76 2nd ex.s. c 34 § 78; 1975 1st ex.s. c 132 § 11; 1969 ex.s. c 263 § 9. Formerly RCW 28.90.180.] Repealed by 1977 c 5 § 1 and by 1975 1st ex.s. c 132 § 11.

Title 29

ELECTIONS

Chapter 29.21

NONPARTISAN PRIMARIES AND ELECTIONS

29.21.100 Nonpartisan ballot—Place on regular ballot. [1965 c 9 § 29.21.100. Prior: (i) 1927 c 155 § 1, part; 1925 ex.s. c 68 § 1, part; 1921 c 116 § 1, part; 1919 c 85 § 1, part; 1911 c 101 § 1, part; 1909 c 82 § 11, part; 1907 c 209 § 38, part; RRS § 5212, part. (ii) 1933 c 85 § 1, part; RRS § 5213-1, part. (iii) 1939 c 1 § 2, part; RRS § 5274-2, part.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

Chapter 29.24

NOMINATIONS OTHER THAN BY PRIMARY

29.24.080 Filing dates for certificates and declarations. [1965 c 9 § 29.24.080. Prior: 1961 c 130 § 14; prior: (i) 1937 c 94 § 8; RRS § 5170-4. (ii) 1950 ex.s. c 14 § 19.] Repealed by 1977 1st ex.s. c 329 § 18.

Chapter 29.30

BALLOTS

29.30.050 Primary ballots—Numbering. [1965 c 9 § 29.30.050. Prior: 1909 c 82 § 5, part; 1907 c 209 § 13, part; RRS § 5190, part.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

29.30.080 General election ballots—Form. [1971 c 18 § 1; 1965 c 52 § 2; 1965 c 9 § 29.30.080. Prior: (i) 1947 c 77 § 1; 1935 c 20 § 3; 1901 c 89 § 1; 1895 c 116 § 4; 1891 c 106 § 1; 1889 p 406 § 17; Rem. Supp. 1947 § 5274. (ii) 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

Reviser's note: This section was also amended by 1977 1st ex.s. c 329 § 14 without cognizance of the repeal thereof.

29.30.090 General election ballots—Size—Uniformity. [1965 c 9 § 29.30.090. Prior: 1895 c 156 § 11, part; 1886 p 128 § 1, part; Code 1881 § 3079, part; 1865 p 34 § 4, part; RRS § 5323, part.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

29.30.100 General election ballots—What names to appear. [1965 c 9 § 29.30.100. Prior: 1961 c 130 § 9; prior: 1907 c 209 § 24, part; RRS § 5201, part.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

Reviser's note: This section was also amended by 1977 1st ex.s. c 329 § 15 without cognizance of the repeal thereof.

29.30.110 Nominee at primary precluded from being candidate of another party at general. [1965 c 9 § 29.30.110. Prior: 1961 c 130 § 18; prior: 1919 c 163 § 18, part; RRS § 5199, part.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

Chapter 29.34

VOTING DEVICES AND VOTE TALLYING SYSTEMS

29.34.150 Application of statutes relating to preparation and use of voting machines to preparation and use of voting devices. [1967 ex.s. c 109 § 25.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

29.34.160 Vote tallying systems—Locations—Ballot cards pick up, delivery and counting center procedure. [1973 1st ex.s. c 70 § 1; 1967 ex.s. c 109 § 27.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

Chapter 29.51

POLLING PLACE REGULATIONS DURING VOTING HOURS

29.51.040 Preservation of order—Penalty. [1965 c 9 § 29.51.040. Prior: 1854 p 68 § 21; No RRS.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

Chapter 29.59 CHALLENGING

29.59.050 Grounds for refusal. [1965 c 9 § 29.59.050. Prior: (i) Code 1881 § 3083; 1865 p 34 § 8; RRS § 5327. (ii) 1905 c 39 § 2; 1893 c 114 § 1; Code 1881 § 3085; 1865 p 36 § 10; RRS § 5329.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

Chapter 29.62 CANVASSING THE RETURNS

29.62.110 State canvassing board—Meeting—Certificate. [1965 c 9 § 29.62.110. Prior: 1961 c 130 § 12; prior: 1907 c 209 § 24, part; RRS § 5201, part.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

29.62.150 Return of registration records after canvass. [1971 ex.s. c 202 § 44; 1965 c 9 § 29.62.150. Prior: 1933 c 1 § 29; RRS § 5114-29.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

Chapter 29.65 CONTESTS

29.65.030 Time for contesting primary or elections based on voting machine, voting device or vote tallying system count. [1967 ex.s. c 109 § 30; 1965 c 9 § 29.65.030. Prior: 1917 c 7 § 1, part; 1913 c 58 § 15, part; RRS § 5315, part.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

29.65.110 Appeal to supreme court—Time—Method. [1965 c 9 § 29.65.110. Prior: (i) Code 1881 § 3122; 1865 p 46 § 18; RRS § 5381. (ii) Code 1881 § 3123, part; 1865 p 46 § 19, part; RRS § 5382, part.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

29.65.130 Contest of nomination at primaries. [1971 c 81 § 77; 1965 c 9 § 29.65.130. Prior: 1907 c 209 § 25, part; RRS § 5202, part.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

Chapter 29.72 PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTIONS— NEW RESIDENT VOTING

29.72.010 "New resident" defined. [1974 ex.s. c 127 § 7; 1971 ex.s. c 178 § 3; 1967 ex.s. c 73 § 1.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

29.72.020 "New resident"—Qualifications. [1971 ex.s. c 178 § 4; 1967 ex.s. c 73 § 2.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

29.72.030 Voting procedure—Counting—Tallying vote. [1974 ex.s. c 127 § 8; 1971 ex.s. c 178 § 6; 1967 ex.s. c 73 § 3.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

29.72.040 New resident ballot application form. [1971 ex.s. c 178 § 7; 1967 ex.s. c 73 § 4.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

29.72.050 Voter's affidavit—Declaration. [1974 ex.s. c 127 § 9; 1971 ex.s. c 178 § 9; 1967 ex.s. c 73 § 5.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

29.72.060 Applications open to public inspection. [1974 ex.s. c 127 § 10; 1971 ex.s. c 178 § 10; 1967 ex.s. c 73 § 6.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

29.72.070 Election supplies. [1974 ex.s. c 127 § 11; 1971 ex.s. c 178 § 11; 1967 ex.s. c 73 § 7.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

29.72.080 Rules and regulations. [1971 ex.s. c 178 § 12; 1967 ex.s. c 73 § 8.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

29.72.910 Severability—1971 ex.s. c 178. [1971 ex.s. c 178 § 14.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

Chapter 29.82 THE RECALL

29.82.050 Comparison and certification of signatures on petitions. [1965 c 9 § 29.82.050. Prior: 1913 c 146 § 7; RRS § 5356.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

29.82.150 When recall becomes effective. [1965 c 9 § 29.82.150. Prior: 1913 c 146 § 13; RRS § 5362.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

Chapter 29.85 CRIMES AND PENALTIES

29.85.150 Inducing noncitizen Indian to vote. [1965 c 9 § 29.85.150. Prior: Code 1881 § 910; 1873 p 205 § 107; RRS § 5391.] Repealed by 1977 1st ex.s. c 81 § 4.

Title 30 BANKS AND TRUST COMPANIES

Chapter 30.04 GENERAL PROVISIONS

30.04.320 Cross reference section. Decodified.

Title 32 MUTUAL SAVINGS BANKS

Chapter 32.04 GENERAL PROVISIONS

32.04.160 Cross reference section. Decodified.

Title 33 SAVINGS AND LOAN ASSOCIATIONS

Chapter 33.04 GENERAL PROVISIONS

33.04.080 Cross reference section. Decodified.

Title 36 COUNTIES

Chapter 36.32 COUNTY COMMISSIONERS

36.32.272 Purchase or lease of capital outlay equipment—Commissioners may elect to adopt provisions for, designate kinds of equipment. [1967 ex.s. c 144 § 17.] Repealed by 1977 c 67 § 8.

36.32.274 Purchase or lease of capital outlay equipment—County equipment and rental revolving fund—Creation—Transfer of sums from current expense fund. [1967 ex.s. c 144 § 18.] Repealed by 1977 c 67 § 8.

36.32.276 Purchase or lease of capital outlay equipment—Authorization by purchasing agent required—Existing contracts. [1967 ex.s. c 144 § 19.] Repealed by 1977 c 67 § 8.

36.32.278 Purchase or lease of capital outlay equipment—Charges for use of equipment—Fiscal procedure. [1967 ex.s. c 144 § 20.] Repealed by 1977 c 67 § 8.

Chapter 36.59 HOMESITE LANDS

36.59.300 Definitions. [1963 c 4 § 36.59.300. Prior: 1939 c 201 § 1; RRS § 4026-11. Formerly RCW 36.59.010.] Repealed by 1977 c 13 § 1.

36.59.310 Entry—Persons entitled. [1971 ex.s. c 292 § 39; 1963 c 4 § 36.59.310. Prior: 1939 c 201 § 2; RRS § 4026-12. Formerly RCW 36.59.050.] Repealed by 1977 c 13 § 1.

36.59.320 Designation of homesite lands—Notice of opening for entry. [1963 c 4 § 36.59.320. Prior: 1939 c 201 § 3; RRS § 4026-13. Formerly RCW 36.59.020 and 36.59.040.] Repealed by 1977 c 13 § 1.

36.59.330 Application for entry—Affidavit—Filing fee. [1963 c 4 § 36.59.330. Prior: 1939 c 201 § 4; RRS § 4026-14. Formerly RCW 36.59.060 and 36.59.100, part.] Repealed by 1977 c 13 § 1.

36.59.340 Forms to be furnished—Oaths administered free. [1963 c 4 § 36.59.340. Prior: 1939 c 201 § 5; RRS § 4026-15. Formerly RCW 36.59.070.] Repealed by 1977 c 13 § 1.

36.59.350 Acreage of tracts. [1963 c 4 § 36.59.350. Prior: 1939 c 201 § 6; RRS § 4026-16. Formerly RCW 36.59.030.] Repealed by 1977 c 13 § 1.

36.59.360 Record of entries. [1963 c 4 § 36.59.360. Prior: 1939 c 201 § 7; RRS § 4026-17. Formerly RCW 36.59.080.] Repealed by 1977 c 13 § 1.

36.59.370 Certificate of entry. [1963 c 4 § 36.59.370. Prior: 1939 c 201 § 8; RRS § 4026-18. Formerly RCW 36.59.100, part.] Repealed by 1977 c 13 § 1.

36.59.380 Final proof—Permitted absences—Annual minimum requirements—Proof upon entryman's death. [1963 c 4 § 36.59.380. Prior: 1939 c 201 § 9; RRS § 4026-19. Formerly RCW 36.59.110, 36.59.120, 36.59.130, 36.59.150, 36.59.160 and 36.59.200.] Repealed by 1977 c 13 § 1.

36.59.390 Conflicting entries. [1963 c 4 § 36.59.390. Prior: 1939 c 201 § 10; RRS § 4026-20. Formerly RCW 36.59.090.] Repealed by 1977 c 13 § 1.

36.59.400 Marriage of entryman to entrywoman. [1963 c 4 § 36.59.400. Prior: 1939 c 201 § 11; RRS § 4026-21. Formerly RCW 36.59.170.] Repealed by 1977 c 13 § 1.

36.59.410 Reversion for nonresidence or abandonment—Board's discretionary power—Succession to right upon marital separation. [1963 c 4 § 36.59.410. Prior: 1939 c 201 § 12; RRS § 4026-22. Formerly RCW 36.59.140 and 36.59.180.] Repealed by 1977 c 13 § 1.

36.59.420 Transfer of entry rights. [1963 c 4 § 36.59.420. Prior: 1939 c 201 § 13; RRS § 4026-23. Formerly RCW 36.59.190.] Repealed by 1977 c 13 § 1.

36.59.430 Reservation of mineral rights. [1963 c 4 § 36.59.430. Prior: 1939 c 201 § 14; RRS § 4026-24. Formerly RCW 36.59.210.] Repealed by 1977 c 13 § 1.

Chapter 36.63 JAILS

36.63.010 Establishment authorized. [1963 c 4 § 36.63.010. Prior: 1917 c 103 § 2; RRS § 10205.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.020 Jail as sheriff's charge—Rules and regulations. [1963 c 4 § 36.63.020. Prior: 1877 p 303 § 5; RRS § 10195.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.030 Jailer to be deputy sheriff. [1963 c 4 § 36.63.030. Prior: 1877 p 305 § 13; RRS § 10203.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.040 Sheriff to visit jail in person—Whitewashing. [1963 c 4 § 36.63.040. Prior: 1877 p 304 § 10; RRS § 10200.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.050 Jail register. [1963 c 4 § 36.63.050. Prior: 1877 p 303 § 6; RRS § 10196.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.060 Jail rules prescribed by superior judge. [1963 c 4 § 36.63.060. Prior: 1877 p 302 § 1; RRS § 10191.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.070 Rules may be revised. [1963 c 4 § 36.63.070. Prior: 1877 p 303 § 4; RRS § 10194.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.080 Rules to be furnished officers. [1963 c 4 § 36.63.080. Prior: 1877 p 302 § 2; RRS § 10192.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.090 Sheriff to keep rules posted. [1963 c 4 § 36.63.090. Prior: 1877 p 303 § 3; RRS § 10193.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.100 Grand jury informed of law, jail rules and regulations. [1963 c 4 § 36.63.100. Prior: 1877 p 304 § 8; RRS § 10198.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.110 Grand jury, prosecutor, and commissioners to visit jail. [1963 c 4 § 36.63.110. Prior: 1877 p 304 § 9; RRS § 10199.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.120 Allowance for prisoner's board. [1969 c 17 § 1; 1963 c 4 § 36.63.120. Prior: 1947 c 58 § 1; 1893 c 16 § 1; Rem. Supp. 1947 § 10188.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.130 Prisoner's hair may be cropped. [1963 c 4 § 36.63.130. Prior: 1877 p 304 § 12; RRS § 10202.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.140 Solitary confinement. [1963 c 4 § 36.63.140. Prior: 1877 p 304 § 11; RRS § 10201.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.150 Joint county and city or town jails. [1963 c 4 § 36.63.150. Prior: 1961 c 171 § 29; 1917 c 103 § 3; RRS § 10206.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.160 Joint county and city or town jails—Joint authority and powers. [1963 c 4 § 36.63.160. Prior: 1961 c 171 § 30; 1917 c 103 § 4; RRS § 10207.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.170 Joint county and city or town jails—Unconvicted prisoner not to be worked. [1963 c 4 § 36.63.170. Prior: 1917 c 103 § 5; RRS § 10208.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.180 Federal prisoners. [1963 c 4 § 36.63.180. Prior: 1917 c 103 § 6; RRS § 10209.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.190 Temporary confinement of prisoners being moved. [1963 c 4 § 36.63.190. Prior: Code 1881 § 1165; RRS § 10187.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.200 Annual report of sheriff. [1963 c 4 § 36.63.200. Prior: 1951 c 108 § 1; 1877 p 303 § 7; RRS § 10197.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.210 Farms and camps authorized. [1963 c 4 § 36.63.210. Prior: 1961 c 171 § 6.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.220 Conviction and commitment deemed sentence to labor—Hours. [1963 c 4 § 36.63.220. Prior: 1961 c 171 § 7.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.230 Sheriff's order of transfer to farm or camp. [1963 c 4 § 36.63.230. Prior: 1961 c 171 § 8.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.240 Confinement in jail of another county. [1963 c 4 § 36.63.240. Prior: 1961 c 171 § 9.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.250 Transfer to jail, farm, or camp maintained by state. [1963 c 4 § 36.63.250. Prior: 1961 c 171 § 10.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.260 Employment of prisoner—Conditions—Disposition of earnings—Diminution of term. [1963 c 4 § 36.63.260. Prior: 1961 c 171 § 11.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.270 Judge may designate jail of contiguous county if facilities inadequate. [1963 c 4 § 36.63.270. Prior: 1961 c 171 § 12.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.280 Districts for joint jails, farms and camps authorized. [1963 c 4 § 36.63.280. Prior: 1961 c 171 § 13.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.290 Powers of district. [1963 c 4 § 36.63.290. Prior: 1961 c 171 § 14.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.300 County commissioners may initiate proceedings for joint district—Resolution of proposal. [1963 c 4 § 36.63.300. Prior: 1961 c 171 § 15.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.310 Transmission of resolution for proposal of joint district to other counties concerned—Board of directors appointed. [1963 c 4 § 36.63.310. Prior: 1961 c 171 § 16.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.320 Resolution of other counties adopting or rejecting proposal for joint district—Transmission to initiating board. [1963 c 4 § 36.63.320. Prior: 1961 c 171 § 17.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.330 Resolution creating joint district—Filing with secretary of state. [1963 c 4 § 36.63.330. Prior: 1961 c 171 § 18.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.340 Joint districts to be numbered by secretary of state. [1963 c 4 § 36.63.340. Prior: 1961 c 171 § 19.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.350 Certificate of organization—First meeting of directors—Expenses of attending directors meetings. [1963 c 4 § 36.63.350. Prior: 1961 c 171 § 20.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.360 Designation as board of directors of joint district. [1963 c 4 § 36.63.360. Prior: 1961 c 171 § 21.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.370 Agreement by directors of district to bind counties—Apportionment of costs. [1963 c 4 § 36.63.370. Prior: 1961 c 171 § 22.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.380 Charges against county collectible by directors of joint district or by county commissioners—Civil action. [1963 c 4 § 36.63.380. Prior: 1961 c 171 § 23.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.390 Directors may establish joint county jail—Conditions and standards. [1963 c 4 § 36.63.390. Prior: 1961 c 171 § 24.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.400 Cash revolving fund for joint county jail—Counties payments for expenses. [1963 c 4 § 36.63.400. Prior: 1961 c 171 § 25.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.410 Commitments to joint county jail. [1963 c 4 § 36.63.410. Prior: 1961 c 171 § 26.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.420 Provisions of law applicable to joint county jails and superintendents. [1963 c 4 § 36.63.420. Prior: 1961 c 171 § 27.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.430 Director's rules for joint county jails. [1963 c 4 § 36.63.430. Prior: 1961 c 171 § 28.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.440 Dissolution of joint district. [1963 c 4 § 36.63.440. Prior: 1961 c 171 § 31.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63.450 Cross reference section. Decodified.

36.63.460 Cross reference section. Decodified.

Chapter 36.63A CITY AND COUNTY JAIL ACT OF 1974

36.63A.010 Purpose. [1974 ex.s. c 81 § 1.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63A.020 Definitions. [1974 ex.s. c 81 § 2.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63A.030 State-wide city and county jail commission—Membership—Officers—Meetings—Office—Staff—Expenses. [1974 ex.s. c 81 § 3.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63A.040 Per diem and travel expenses. [1974 ex.s. c 81 § 4.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63A.050 State-wide city and county jail commission—Duties. [1974 ex.s. c 81 § 5.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63A.060 Minimum standards and rules for detention and correctional institutions. [1974 ex.s. c 81 § 6.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63A.900 Short title—Legislative directive. [1974 ex.s. c 81 § 7.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63A.905 Commission abolished—Effective date. [1974 ex.s. c 81 § 8.] Repealed by 1977 1st ex.s. c 316 § 27.

36.63A.910 Severability—1974 ex.s. c 81. [1974 ex.s. c 81 § 9.] Repealed by 1977 1st ex.s. c 316 § 27.

Chapter 36.72 PRINTING

36.72.010 Official county paper. [1963 c 4 § 36.72.010. Prior: 1917 c 114 § 1, part; 1886 p 108 § 1, part; Code 1881 § 2692, part; 1873 p 478 § 1, part; RRS § 4080, part.] Repealed by 1977 c 34 § 7. Later enactment, see RCW 36.72.075.

36.72.020 Procedure where county has no newspaper. [1963 c 4 § 36.72.020. Prior: 1917 c 114 § 1, part; 1886 p 108 § 1, part; Code 1881 § 2692, part; 1873 p 478 § 1, part; RRS § 4080, part.] Repealed by 1977 c 34 § 7.

36.72.030 Procedure where county has no newspaper—Bond. [1963 c 4 § 36.72.030. Prior: 1917 c 114 § 1, part; Code 1881 § 2692, part; 1873 p 478 § 1, part; RRS § 4080, part.] Repealed by 1977 c 34 § 7.

36.72.040 Procedure where county has no newspaper—Term of contract. [1963 c 4 § 36.72.040. Prior: 1917 c 114 § 1, part; 1886 p 108 § 1, part; Code 1881 § 2692, part; 1873 p 478 § 1, part; RRS § 4080, part.] Repealed by 1977 c 34 § 7.

36.72.050 Procedure where county has no newspaper—Advertisement for proposals for printing. [1973 1st ex.s. c 28 § 1; 1969 ex.s. c 43 § 1; 1963 c 4 § 36.72.050. Prior: 1955 c 312 § 2; prior: 1947 c 141 § 1, part; 1917 c 114 § 2, part; 1907 c 229 § 1, part; 1886 p 108 § 2, part; Code 1881 § 2693, part; 1873 p 478 § 2, part; Rem. Supp. 1947 § 4081, part.] Repealed by 1977 c 34 § 7.

36.72.060 Procedure where county has no newspaper—Specifications. [1963 c 4 § 36.72.060. Prior: 1955 c 312 § 3, prior: 1947 c 141 § 1, part; 1917 c 114 § 2, part; 1907 c 229 § 1, part; 1886 p 108 § 2, part; Code 1881 § 2693, part; 1873 p 478 § 2, part; Rem. Supp. 1947 § 4081, part.] Repealed by 1977 c 34 § 7.

36.72.070 All county officers to use official paper. [1963 c 4 § 36.72.070. Prior: Code 1881 § 2694; 1873 p 478 § 3; RRS § 4082.] Repealed by 1977 c 34 § 7. Later enactment, see RCW 36.72.071.

Chapter 36.82 ROADS AND BRIDGES—FUNDS—BUDGET

36.82.220 "Equipment rental and revolving fund" created. [1963 c 4 § 36.82.220. Prior: 1949 c 156 § 1; Rem. Supp. 1949 § 6450-8a.] Repealed by 1977 c 67 § 8. Later enactment, see RCW 36.33A.010.

36.82.230 County road fund, equipment rental and revolving fund—Payroll warrants—Transfers. [1965 ex.s. c 25 § 1.] Repealed by 1977 c 67 § 8.

Title 39 PUBLIC CONTRACTS AND INDEBTEDNESS

Chapter 39.20 EMPLOYMENT OF CERTAIN ALIENS

39.20.010 Employment of alien evading military service prohibited. [1919 c 111 § 1; RRS § 2334-1.] Repealed by 1977 1st ex.s. c 16 § 1.

39.20.020 Acceptance of employment by alien prohibited. [1919 c 111 § 2; RRS § 2334-2.] Repealed by 1977 1st ex.s. c 16 § 1.

39.20.030 List of employees. [1919 c 111 § 3; RRS § 2334-3.] Repealed by 1977 1st ex.s. c 16 § 1.

39.20.040 Penalty. [1919 c 111 § 4; RRS § 2334-4.] Repealed by 1977 1st ex.s. c 16 § 1.

Title 40 PUBLIC DOCUMENTS, RECORDS AND PUBLICATIONS

Chapter 40.04 PUBLIC DOCUMENTS

40.04.010 Definition. [1941 c 150 § 1; Rem. Supp. 1941 § 8217-1.] Repealed by 1977 1st ex.s. c 232 § 12. Later enactment, see chapter 40.07 RCW.

40.04.020 Executive and administrative reports—Distribution, exchange—Duties of state librarian and public printer. [1941 c 150 § 2; Rem. Supp. 1941 § 8217-2.] Repealed by 1977 1st ex.s. c 232 § 12. Later enactment, see chapter 40.07 RCW.

Title 41 PUBLIC EMPLOYMENT, CIVIL SERVICE AND PENSIONS

Chapter 41.05 STATE EMPLOYEES' INSURANCE AND HEALTH CARE

41.05.020 State employees' insurance board—Created—Membership—Meetings—Travel expenses—Powers and duties. [1977 c 75 § 34, 1977 c 6 § 1. Prior: 1975-'76 2nd ex.s. c 106 § 3; 1975-'76 2nd ex.s. c 34 § 85; 1973 1st ex.s. c 147 § 1; 1970 ex.s. c 39 § 2.] Repealed by 1977 1st ex.s. c 136 § 7.

Reviser's note: This section was also amended by 1977 1st ex.s. c 190 § 1 without cognizance of the repeal thereof.

Chapter 41.06 STATE CIVIL SERVICE LAW

41.06.090 Feasibility study of department of highways, state patrol, with respect to integration with department of personnel. [1961 c 1 § 9.] Repealed by 1977 1st ex.s. c 152 § 7.

Title 42 PUBLIC OFFICERS AND AGENCIES

Chapter 42.17 DISCLOSURE—CAMPAIGN FINANCES—LOBBYING— RECORDS

42.17.195 Intergovernmental information and communications—Reimbursement of employees for expenses incurred authorized—Reporting. [1975-'76 2nd ex.s. c 112 § 14.] Repealed by 1977 1st ex.s. c 313 § 7.

Title 43 STATE GOVERNMENT—EXECUTIVE

Chapter 43.01 STATE OFFICERS—GENERAL PROVISIONS

43.01.030 Filing and printing of reports of state officers, etc. [1965 c 8 § 43.01.030. Prior: 1929 c 161 § 1; RRS § 10973-1.] Repealed by 1977 1st ex.s. c 232 § 12. Later enactment, see RCW 40.07.030.

Chapter 43.03 SALARIES AND EXPENSES

43.03.140 Budget director to prescribe procedures for reporting expenditures incurred under RCW 43.03.060, 43.03.110, 43.03.120 and 43.03.130. [1967 ex.s. c 16 § 5.] Repealed by 1977 c 75 § 96.

Chapter 43.07 SECRETARY OF STATE

43.07.060 Bureau of statistics—Duties of commissioner. [1965 c 8 § 43.07.060. Prior: 1895 c 85 § 2; RRS § 10934.] Repealed by 1977 c 75 § 96.

43.07.070 Bureau of statistics—Officers to furnish data—Distribution of reports. [1965 c 8 § 43.07.070. Prior: 1895 c 85 § 3; RRS § 10935.] Repealed by 1977 c 75 § 96.

43.07.080 Bureau of statistics—Preparation of report. [1965 c 8 § 43.07.080. Prior: 1895 c 85 § 4; RRS § 10936.] Repealed by 1977 c 75 § 96.

Chapter 43.09 STATE AUDITOR

43.09.160 Claims against state—Time for presenting—Setoff in actions by state. [1965 c 8 § 43.09.160. Prior: 1890 p 638 § 12; RRS § 11007; prior: Code 1881 § 2578; 1854 p 411 § 8.] Repealed by 1977 1st ex.s. c 144 § 13.

Chapter 43.19 DEPARTMENT OF GENERAL ADMINISTRATION

43.19.060 Secrecy enjoined as to banks and trust companies—Exceptions—Penalty. [1965 c 8 § 43.19.060. Prior: 1919 c 209 § 6; 1917 c 80 § 9; RRS § 3216.] Repealed by 1977 1st ex.s. c 245 § 5. Later enactment, see RCW 30.04.075.

Severability—1977 1st ex.s. c 245: See note following RCW 30.04.075.

43.19.070 Secrecy enjoined as to mutual savings banks—Exceptions—Penalty. [1965 c 8 § 43.19.070. Prior: 1931 c 132 § 3; RRS § 3369a.] Repealed by 1977 1st ex.s. c 245 § 5. Later enactment, see RCW 32.04.200.

Severability—1977 1st ex.s. c 245: See note following RCW 30.04.075.

43.19.120 Secrecy enjoined as to associations—Exceptions—Penalty. [1965 c 8 § 43.19.120. Prior: 1945 c 235 § 93; Rem. Supp. 1945 § 3717-212.] Repealed by 1977 1st ex.s. c 245 § 5. Later enactment, see RCW 33.04.110.

Severability—1977 1st ex.s. c 245: See note following RCW 30.04.075.

Chapter 43.51 PARKS AND RECREATION COMMISSION

43.51.750 Definitions. [1967 ex.s. c 19 § 1.] Repealed by 1977 1st ex.s. c 195 § 22.

43.51.760 Participation in federal act programs authorized. [1967 ex.s. c 19 § 2.] Repealed by 1977 1st ex.s. c 195 § 22.

43.51.770 Powers and duties of director. [1967 ex.s. c 19 § 3.] Repealed by 1977 1st ex.s. c 195 § 22.

43.51.780 Apportionment of grants. [1967 ex.s. c 19 § 4.] Repealed by 1977 1st ex.s. c 195 § 22.

43.51.790 Advisory council on historic preservation—Membership—Terms—Vacancies—Quorum. [1967 ex.s. c 19 § 5.] Repealed by 1977 1st ex.s. c 195 § 22.

43.51.800 Powers and duties of advisory council. [1977 c 75 § 58; 1967 ex.s. c 19 § 6.] Repealed by 1977 1st ex.s. c 195 § 22.

43.51.810 Travel expenses of council members. [1975-'76 2nd ex.s. c 34 § 117; 1967 ex.s. c 19 § 7.] Repealed by 1977 1st ex.s. c 195 § 22.

43.51.820 Executive director of council—Financial and administrative services. [1967 ex.s. c 19 § 8.] Repealed by 1977 1st ex.s. c 195 § 22.

43.51.941 Study and report. [1975-'76 2nd ex.s. c 88 § 2.] Repealed by 1977 1st ex.s. c 306 § 8.

Chapter 43.52

Table of Disposition of Former RCW Sections

Chapter 43.52 OPERATING AGENCIES (POWER COMMISSION)

43.52.340 May not obligate state—Disposition of revenues. [1965 c 8 § 43.52.340. Prior: 1955 c 258 § 5; 1953 c 281 § 9.] Repealed by 1977 1st ex.s. c 184 § 12.

Chapter 43.77 PRINTING AND DUPLICATING COMMITTEE (Later enactment: See RCW 43.19.640 through 43.19.665)

43.77.010 Composition of committee. [1965 c 8 § 43.77.010. Prior: 1959 c 238 § 1.] Repealed by 1977 1st ex.s. c 86 § 8.

43.77.020 Powers and duties. [1973 c 12 § 1; 1965 c 8 § 43.77.020. Prior: 1959 c 238 § 2.] Repealed by 1977 1st ex.s. c 86 § 8.

43.77.030 Unauthorized acquisition of printing or duplicating equipment prohibited—Exceptions. [1973 c 12 § 2; 1965 c 8 § 43.77.030. Prior: 1959 c 238 § 3.] Repealed by 1977 1st ex.s. c 86 § 8.

43.77.040 Meetings. [1965 c 8 § 43.77.040. Prior: 1959 c 238 § 4.] Repealed by 1977 1st ex.s. c 86 § 8.

43.77.050 Legislative, judicial branches of government excepted. [1965 c 8 § 43.77.050. Prior: 1959 c 238 § 5.] Repealed by 1977 1st ex.s. c 86 § 8.

Chapter 43.92 GEOLOGICAL SURVEY

43.92.030 Report to legislature. [1965 c 8 § 43.92.030. Prior: 1901 c 165 § 3; RRS § 5995.] Repealed by 1977 c 75 § 96.

43.92.050 Materials distributed to schools. [1965 c 8 § 43.92.050. Prior: 1901 c 165 § 5; RRS § 5997.] Repealed by 1977 1st ex.s. c 169 § 115.

Chapter 43.125 AMERICAN REVOLUTION BICENTENNIAL COMMISSION

Reviser's note: The American revolution bicentennial commission was abolished by 1977 1st ex.s. c 17 § 1. The Washington state historical society was designated as the successor agency for purposes of liquidation and custodian of records, equipment, funds, etc. See 1977 1st ex.s. c 17 § 2.

43.125.010 Commission created—Membership—Compensation—Travel expenses. [1975-'76 2nd ex.s. c 34 § 132; 1972 ex.s. c 76 § 1.] Repealed by 1977 1st ex.s. c 17 § 3.

43.125.020 Powers and duties—Reports. [1972 ex.s. c 76 § 2.] Repealed by 1977 1st ex.s. c 17 § 3.

Reviser's note: This section was also amended by 1977 c 75 § 65 without cognizance of the repeal thereof.

43.125.030 Consultation with other agencies, institutions and organizations—Cooperation enjoined. [1972 ex.s. c 76 § 3.] Repealed by 1977 1st ex.s. c 17 § 3 and by 1977 1st ex.s. c 169 § 115.

43.125.040 Official Washington state commemoration medal. [1972 ex.s. c 76 § 4.] Repealed by 1977 1st ex.s. c 17 § 3.

43.125.050 Donations—Property—Expenditures. [1972 ex.s. c 76 § 5.] Repealed by 1977 1st ex.s. c 17 § 3.

43.125.900 Termination of commission. [1972 ex.s. c 76 § 7.] Repealed by 1977 1st ex.s. c 17 § 3.

Title 44 STATE GOVERNMENT—LEGISLATIVE

Chapter 44.18 CLAIMS

44.18.010 Claims against state—Requirements. [1903 c 46 § 1; RRS § 8195. Formerly RCW 44.16.010.] Repealed by 1977 1st ex.s. c 144 § 13.

Chapter 44.39 JOINT COMMITTEE ON NUCLEAR ENERGY

44.39.030 Meetings. [1969 ex.s. c 260 § 5.] Repealed by 1977 1st ex.s. c 328 § 19.

44.39.035 Studies—Liaison—Reports to legislature. [1969 ex.s. c 260 § 6.] Repealed by 1977 1st ex.s. c 328 § 19.

44.39.040 Staff director, clerical and other assistants—Compensation—Information and assistance. [1969 ex.s. c 260 § 7.] Repealed by 1977 1st ex.s. c 328 § 19.

Chapter 44.40 LEGISLATIVE TRANSPORTATION COMMITTEE—SENATE AND HOUSE TRANSPORTATION AND UTILITIES COMMITTEES

44.40.110 Review and study of taxing structure for transportation programs and activities. [1975 1st ex.s. c 268 § 8; 1975 c 2 § 1; 1973 1st ex.s. c 210 § 4.] Repealed by 1977 1st ex.s. c 235 § 19.

44.40.125 Studies—Additions or deletions to system—Mileage and weight enforcement—Increase vehicle occupancy. [1975 1st ex.s. c 268 § 5.] Repealed by 1977 1st ex.s. c 235 § 19.

44.40.130 Study—Third level air carrier regulations. [1975 1st ex.s. c 268 § 6.] Repealed by 1977 1st ex.s. c 235 § 19.

Chapter 44.60 LEGISLATIVE ETHICS

44.60.060 Powers, duties and functions of boards. [1967 ex.s. c 150 § 7.] Repealed by 1977 1st ex.s. c 218 § 11.

Title 45 TOWNSHIPS

Chapter 45.24 DUTIES OF TOWN SUPERVISORS

45.24.030 Town supervisors to be board of health. [1895 c 175 § 50; RRS § 11409.] Repealed by 1977 c 15 § 2.

Chapter 45.68 GUIDEPOSTS

45.68.010 Guideposts. [1895 c 175 § 105; RRS § 11468.] Repealed by 1977 c 14 § 1.

45.68.020 Supervisors to make report of guideposts. [1895 c 175 § 106; RRS § 11469.] Repealed by 1977 c 14 § 1.

45.68.030 Town to determine places for guideposts; penalty. [1895 c 175 § 107; RRS § 11470.] Repealed by 1977 c 14 § 1.

45.68.040 Guideposts; bow erected and marked. [1895 c 175 § 108; RRS § 11471.] Repealed by 1977 c 14 § 1.

45.68.050 Penalty for not maintaining guideposts. [1895 c 175 § 109; RRS § 11472.] Repealed by 1977 c 14 § 1.

Title 46 MOTOR VEHICLES

Chapter 46.01 DEPARTMENT OF MOTOR VEHICLES

46.01.010 Purpose. [1965 c 156 § 1.] Repealed by 1977 1st ex.s. c 334 § 7.

46.01.060 Transfer of property, records, funds, appropriations, etc., of department of licenses. [1965 c 156 § 6.] Repealed by 1977 1st ex.s. c 334 § 7.

46.01.080 Functions performed by state patrol as agent for director of licenses transferred to department—Transfer of certain property, records, funds, etc., of state patrol to department—Segregation. [1965 c 156 § 8.] Repealed by 1977 1st ex.s. c 334 § 7.

46.01.120 Rules and regulations—Continuation of rules and regulations of director of licenses. [1965 c 156 § 12.] Repealed by 1977 1st ex.s. c 334 § 7.

46.01.200 Transfer of employees of department of licenses and state patrol to department—Applicability of civil service law. [1965 c 156 § 22.] Repealed by 1977 1st ex.s. c 334 § 7.

**Chapter 46.08
GENERAL PROVISIONS**

46.08.060 Classification as emergency vehicles—Approval of operators. [1961 c 12 § 46.08.060. Prior: 1937 c 189 § 132; RRS § 6360–132.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900, and 19.02.910.

**Chapter 46.09
ALL-TERRAIN VEHICLES**

46.09.175 Transferred funds may be used for administration and coordination. [1975 1st ex.s. c 34 § 2.] Repealed by 1977 1st ex.s. c 220 § 22.

46.09.210 ATV to include snowmobiles, when. [1971 ex.s. c 47 § 28.] Repealed by 1977 1st ex.s. c 220 § 22.

46.09.220 Department of natural resources to coordinate implementation and administration. [1972 ex.s. c 153 § 18.] Repealed by 1977 1st ex.s. c 220 § 22.

**Chapter 46.16
VEHICLE LICENSES**

46.16.100 Special permits for single movement—Fee. [1975 c 25 § 18; 1971 ex.s. c 231 § 10; 1969 ex.s. c 170 § 5; 1961 c 12 § 46.16.100. Prior: 1955 c 363 § 7; prior: 1955 c 139 § 23; 1950 ex.s. c 15 § 1, part; 1949 c 220 § 10, part; 1947 c 200 § 15, part; 1941 c 224 § 1, part; 1939 c 182 § 3, part; 1937 c 188 § 17, part; Rem. Supp. 1947 § 6312–17, part; 1931 c 140 § 1, part; 1921 c 96 § 15, part; 1919 c 146 § 1, part; 1917 c 155 § 10, part; 1915 c 142 § 15, part; RRS § 6326, part.] Repealed by 1975–76 2nd ex.s. c 64 § 24.

46.16.104 Mobile home movement permit, vehicle license plates—Required—Copies to county assessors. [1973 c 103 § 6; 1971 ex.s. c 231 § 20.] Repealed by 1977 1st ex.s. c 22 § 9. Later enactment, see RCW 46.44.170.

46.16.105 Mobile home movement permit, vehicle license plates—Special one-transit permit—Conditions—Fee, disposition. [1971 ex.s. c 231 § 21.] Repealed by 1977 1st ex.s. c 22 § 9.

46.16.106 Mobile home movement without permit or vehicle license plate as misdemeanor—Exception. [1973 c 103 § 7; 1971 ex.s. c 231 § 22.] Repealed by 1977 1st ex.s. c 22 § 9. Later enactment, see RCW 46.44.175.

**Chapter 46.37
VEHICLE LIGHTING AND OTHER EQUIPMENT**

46.37.250 Lighting equipment on motor-driven cycles. [1961 c 12 § 46.37.250. Prior: 1955 c 269 § 25.] Repealed by 1977 1st ex.s. c 355 § 54.

46.37.370 Brakes on motor-driven cycles. [1963 c 154 § 23; 1961 c 12 § 46.37.370. Prior: 1955 c 269 § 37.] Repealed by 1977 1st ex.s. c 355 § 54.

**Chapter 46.80
MOTOR VEHICLE WRECKERS**

46.80.120 Improper practices—Penalty. [1961 c 12 § 46.80.120. Prior: 1947 c 262 § 12; Rem. Supp. 1947 § 8326–51.] Repealed by 1977 1st ex.s. c 253 § 12.

**Title 47
PUBLIC HIGHWAYS**

**Chapter 47.01
HIGHWAY COMMISSION**

47.01.010 Legislative declaration. [1961 c 13 § 47.01.010. Prior: 1951 c 247 § 1.] Repealed by 1977 1st ex.s. c 151 § 80.

47.01.020 Commission created—Appointment of members—Terms. [1961 c 13 § 47.01.020. Prior: 1951 c 247 § 2. Formerly RCW 43.27.070.] Repealed by 1977 1st ex.s. c 151 § 80.

47.01.030 Members—Qualifications—Removal. [1965 ex.s. c 1 § 1; 1961 c 13 § 47.01.030. Prior: 1951 c 247 § 3. Formerly RCW 43.27.080.] Repealed by 1977 1st ex.s. c 151 § 80.

47.01.040 Members—Compensation and travel expenses. [1975–76 2nd ex.s. c 34 § 138; 1965 ex.s. c 170 § 31; 1961 c 13 § 47.01.040. Prior: 1951 c 247 § 13. Formerly RCW 43.27.090.] Repealed by 1977 1st ex.s. c 151 § 80.

47.01.050 Powers of commission. [1961 c 13 § 47.01.050. Prior: 1951 c 247 § 4. Formerly RCW 43.27.100.] Repealed by 1977 1st ex.s. c 151 § 80.

47.01.060 Exercise of powers—Rules and regulations. [1961 c 13 § 47.01.060. Prior: 1951 c 247 § 7. Formerly RCW 43.27.110.] Repealed by 1977 1st ex.s. c 151 § 80.

47.01.080 Meetings of commission—Rules and regulations. [1961 c 13 § 47.01.080. Prior: 1951 c 247 § 6. Formerly RCW 43.27.130.] Repealed by 1977 1st ex.s. c 151 § 80.

47.01.090 Meetings—Notice—Quorum. [1961 c 13 § 47.01.090. Prior: 1951 c 247 § 8. Formerly RCW 43.27.140.] Repealed by 1977 1st ex.s. c 151 § 80.

47.01.100 Director of highways—Appointment—General duties. [1961 c 13 § 47.01.100. Prior: 1951 c 247 § 9. Formerly RCW 43.27.150.] Repealed by 1977 1st ex.s. c 151 § 80.

47.01.110 Director of highways—Qualifications. [1961 c 13 § 47.01.110. Prior: 1951 c 247 § 10. Formerly RCW 43.27.160.] Repealed by 1977 1st ex.s. c 151 § 80.

47.01.120 Director of highways—Term—Removal. [1961 c 13 § 47.01.120. Prior: 1951 c 247 § 11. Formerly RCW 43.27.170.] Repealed by 1977 1st ex.s. c 151 § 80.

47.01.130 Director of highways—Salary. [1961 c 307 § 10; 1961 c 13 § 47.01.130. Prior: 1957 c 172 § 31; 1951 c 247 § 12. Formerly RCW 43.27.180.] Repealed by 1977 1st ex.s. c 151 § 80.

47.01.160 Commission—Specific powers enumerated. [1974 ex.s. c 29 § 1. Prior: 1973 2nd ex.s. c 12 § 2; 1973 c 106 § 21; 1971 ex.s. c 115 § 1; 1965 ex.s. c 170 § 29; 1961 c 13 § 47.01.160; prior: 1937 c 53 § 3; RRS § 6400–3. Formerly RCW 43.27.020.] Repealed by 1977 1st ex.s. c 151 § 80.

**Chapter 47.05
PRIORITY PROGRAMMING FOR HIGHWAY DEVELOPMENT**

47.05.020 Functional classification of highways. [1969 ex.s. c 39 § 2; 1963 c 173 § 2.] Repealed by 1977 1st ex.s. c 130 § 2, effective July 1, 1979.

Reviser's note: This section was also amended by 1977 1st ex.s. c 151 § 43 without cognizance of the repeal thereof.

**Chapter 47.12
ACQUISITION AND DISPOSITION OF STATE HIGHWAY
PROPERTY**

47.12.020 Acquisition of state lands, rights, and materials—Duties when use no longer required—Payment for timber and materials. [1961 c 156 § 1; 1961 c 13 § 47.12.020. Prior: 1953 c 54 § 1; 1937 c 53 § 25, part; RRS § 6400–25, part. Formerly RCW 47.12.020 and 47.12.030.] Repealed by 1977 1st ex.s. c 103 § 5.

47.12.060 Sale or exchange of rights or land not needed for highway purposes—Sale by public auction only, when. [1975 1st ex.s. c 96 § 1; 1961 c 13 § 47.12.060. Prior: 1955 c 384 § 13; prior: 1945 c 146 § 1, part; 1937 c 53 § 28, part; Rem. Supp. 1945 § 6400–28, part.] Repealed by 1977 1st ex.s. c 78 § 9.

Reviser's note: This section was also amended by 1977 1st ex.s. c 151 § 47 without cognizance of the repeal thereof.

47.12.070 Sale or exchange of rights or land not needed for highway purposes—Sale or lease to a city or county—Proceeds. [1975 1st ex.s. c 96 § 2; 1969 c 91 § 2; 1961 c 13 § 47.12.070. Prior: 1955 c 384 § 14; prior: 1945 c 146 § 1, part; 1937 c 53 § 28, part; Rem. Supp. 1945 § 6400–28, part.] Repealed by 1977 1st ex.s. c 78 § 9.

Reviser's note: This section was also amended by 1977 1st ex.s. c 151 § 48 without cognizance of the repeal thereof.

Chapter 47.16
PRIMARY HIGHWAY ROUTES

47.16.220 Corridor highway (Auburn to Bothell)—Hearings and study as to location and design. [1969 ex.s. c 281 § 57.] Repealed by 1977 1st ex.s. c 235 § 19.

Chapter 47.20
MISCELLANEOUS PROJECTS

47.20.662 West Seattle freeway corridor—Studies—Appropriation. [1975 1st ex.s. c 267 § 2.] Repealed by 1977 1st ex.s. c 235 § 19.

Chapter 47.42
HIGHWAY ADVERTISING CONTROL ACT—SCENIC VISTAS ACT

47.42.150 Joint fact finding committee—Studies—Report. [1961 c 96 § 15.] Repealed by 1977 c 75 § 96.

Chapter 47.56
STATE TOLL BRIDGES, TUNNELS AND FERRIES

47.56.034 Division of toll facilities in highway commission—Powers and duties. [1965 ex.s. c 170 § 30; 1961 c 278 § 10.] Repealed by 1977 1st ex.s. c 151 § 80.

47.56.350 Bridging Puget Sound, Hood Canal—Study, construction, authorized—Bonds. [1961 c 13 § 47.56.350. Prior: 1953 c 78 § 1.] Repealed by 1977 c 75 § 96.

Chapter 47.60
PUGET SOUND FERRY AND TOLL BRIDGE SYSTEM

47.60.510 Evaluation of alternative methods of providing ferry transportation service across Puget Sound and adjacent waters. [1971 ex.s. c 149 § 1.] Repealed by 1977 1st ex.s. c 235 § 19.

47.60.520 Evaluation of alternative methods of providing ferry transportation service across Puget Sound and adjacent waters—Cross sound transportation plan—Progress reports. [1971 ex.s. c 149 § 2.] Repealed by 1977 1st ex.s. c 235 § 19.

Title 48
INSURANCE

Chapter 48.32
WASHINGTON INSURANCE GUARANTY ASSOCIATION ACT

48.32.140 Recognition of assessments in rates. [1971 ex.s. c 265 § 14.] Repealed by 1977 1st ex.s. c 183 § 3.

Title 50
UNEMPLOYMENT COMPENSATION

Chapter 50.04
DEFINITIONS

50.04.200 Employment—Local governmental services—Time limitation. [1971 c 3 § 9; 1953 ex.s. c 8 § 1; 1953 c 276 § 1; 1951 c 265 § 7; 1945 c 35 § 21; Rem. Supp. 1945 § 9998-160. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.] Repealed by 1977 1st ex.s. c 292 § 26, effective January 1, 1978.

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

50.04.250 Employment—Services regarding mushrooms. [1945 c 35 § 26; Rem. Supp. 1945 § 9998-164. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.] Repealed by 1977 1st ex.s. c 292 § 27.

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

50.04.260 Employment—Specially excepted services. [1951 c 265 § 1; 1945 c 35 § 27; Rem. Supp. 1945 § 9998-165. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.] Repealed by 1977 1st ex.s. c 292 § 27.

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

[1977 RCW Supp—p A40]

Chapter 50.12
ADMINISTRATION

50.12.110 Information from employing unit records confidential. [1971 ex.s. c 255 § 1; 1951 c 215 § 3; 1945 c 35 § 50; Rem. Supp. 1945 § 9998-188. Prior: 1939 c 214 § 9; 1937 c 162 § 11.] Repealed by 1977 1st ex.s. c 153 § 12.

Title 51
INDUSTRIAL INSURANCE

Chapter 51.24
ACTIONS AT LAW FOR INJURY OR DEATH

51.24.010 Right of action against third party—Intervention and subrogation rights of department or self-insurer—Compromise and settlement. [1973 1st ex.s. c 154 § 93; 1971 ex.s. c 289 § 37; 1961 c 274 § 7; 1961 c 23 § 51.24.010. Prior: 1957 c 70 § 23; prior: 1939 c 41 § 2, part; 1929 c 132 § 1, part; 1927 c 310 § 2, part; 1921 c 182 § 2, part; 1919 c 131 § 2, part; 1917 c 120 § 1, part; 1911 c 74 § 3, part; RRS § 7675, part.] Repealed by 1977 1st ex.s. c 85 § 10. Later enactment, see RCW 51.24.030-51.24.100.

Chapter 51.40
MEDICAL AID CONTRACTS

Reviser's note: (1) For section which provides for the continuation of the obligations of medical aid contracts approved prior to repeal, see RCW 51.04.105.

(2) The sections of this chapter were repealed by 1977 1st ex.s. c 323 and were also amended by 1977 1st ex.s. c 350, each without reference to the other. For rule of construction, see RCW 1.12.025.

(3) For severability and effective date of 1977 1st ex.s. c 323, see notes following RCW 51.04.040.

51.40.010 Medical aid contracts authorized. [1961 c 23 § 51.40.010. Prior: 1939 c 50 § 1, part; 1927 c 310 § 9, part; 1921 c 182 § 12, part; 1919 c 129 § 5, part; 1917 c 28 § 15, part; RRS § 7724, part.] Repealed by 1977 1st ex.s. c 323 § 28.

51.40.020 Contract approval. [1965 ex.s. c 80 § 2; 1965 c 36 § 1; 1961 c 23 § 51.40.020. Prior: 1939 c 50 § 1, part; 1927 c 310 § 9, part; 1921 c 182 § 12, part; 1919 c 129 § 5, part; 1917 c 28 § 15, part; RRS § 7724, part.] Repealed by 1977 1st ex.s. c 323 § 28.

51.40.030 Provisions made inapplicable where contract exists. [1961 c 23 § 51.40.030. Prior: 1939 c 50 § 1, part; 1927 c 310 § 9, part; 1921 c 182 § 12, part; 1919 c 129 § 5, part; 1917 c 28 § 15, part; RRS § 7724, part.] Repealed by 1977 1st ex.s. c 323 § 28.

51.40.040 Provision for medical aid when contract service ended. [1973 c 106 § 29; 1961 c 23 § 51.40.040. Prior: 1939 c 50 § 1, part; 1927 c 310 § 9, part; 1921 c 182 § 12, part; 1919 c 129 § 5, part; 1917 c 28 § 15, part; RRS § 7724, part.] Repealed by 1977 1st ex.s. c 323 § 28.

51.40.050 Complaint of the contract service. [1961 c 23 § 51.40.050. Prior: 1939 c 50 § 1, part; 1927 c 310 § 9, part; 1921 c 182 § 12, part; 1919 c 129 § 5, part; 1917 c 28 § 15, part; RRS § 7724, part.] Repealed by 1977 1st ex.s. c 323 § 28.

51.40.060 Adequate treatment when contract treatment deficient. [1961 c 23 § 51.40.060. Prior: 1939 c 50 § 1, part; 1927 c 310 § 9, part; 1921 c 182 § 12, part; 1919 c 129 § 5, part; 1917 c 28 § 15, part; RRS § 7724, part.] Repealed by 1977 1st ex.s. c 323 § 28.

51.40.070 Transfer from contract doctor. [1961 c 23 § 51.40.070. Prior: 1959 c 256 § 5; prior: 1943 c 186 § 2, part; 1923 c 136 § 9, part; 1921 c 182 § 11, part; 1919 c 129 § 2, part; 1917 c 28 § 5, part; Rem. Supp. 1943 § 7714, part.] Repealed by 1977 1st ex.s. c 323 § 28.

Title 64
REAL PROPERTY AND CONVEYANCES

Chapter 64.20
ALIENATION OF LAND BY INDIANS

64.20.020 Puyallup Indians—Right of alienation—Manner of conveyance. [1890 p 500 § 2; RRS § 10594.] Repealed by 1977 1st ex.s. c 81 § 4.

Title 65
RECORDING, REGISTRATION, AND LEGAL PUBLICATION

Chapter 65.16
LEGAL PUBLICATIONS

65.16.090 Publication fees. [1973 1st ex.s. c 28 § 2; 1967 ex.s. c 57 § 1; 1955 c 186 § 1; 1947 c 140 § 1; 1921 c 99 § 4; Rem. Supp. 1947 § 253-4.] Repealed by 1977 c 34 § 5. Later enactment, see RCW 65.16.091.

Title 67
ATHLETICS, SPORTS AND ENTERTAINMENT

Chapter 67.08
BOXING AND WRESTLING

67.08.020 Application for license—Fee—Verification. [1959 c 305 § 3; 1933 c 184 § 8; RRS § 8276-8. FORMER PART OF SECTION: 1933 c 184 § 20, part; RRS § 8276-20, part; now codified as RCW 67.08.025.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

67.08.025 Duration of license—Expiration dates. [1933 c 184 § 20; RRS § 8276-20. Formerly RCW 67.08.020, part and 67.08.100, part.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

Title 70
PUBLIC HEALTH AND SAFETY

Chapter 70.20
PESTHOUSES, QUARANTINES, AND MISCELLANEOUS HEALTH PRECAUTIONS

70.20.140 Infected prisoners—Removal. [Code 1881 § 2214; RRS § 6071.] Repealed by 1977 1st ex.s. c 316 § 27.

Chapter 70.72
WIPING RAGS

70.72.010 Wiping rags defined. [1959 c 206 § 1.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

70.72.020 Sale, rental prohibited unless disinfected and sterilized—Minimum standards. [1959 c 206 § 2.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

70.72.030 Parcels, packages to be marked. [1959 c 206 § 3.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

70.72.040 Registration—Renewal—Fees. [1959 c 206 § 4.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

70.72.050 Application for registration number—Contents. [1959 c 206 § 5.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

70.72.060 Enforcement of chapter—Entry—Examination—Obstructing inspection. [1959 c 206 § 6.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

70.72.070 Prosecutions—Remedies available. [1959 c 206 § 7.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

70.72.080 Unlawful acts—Penalty. [1959 c 206 § 8.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

70.72.090 Rules by local authorities, state board, not prohibited. [1959 c 206 § 9.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

Chapter 70.83
PHENYLKETONURIA AND OTHER PREVENTABLE HERITABLE DISORDERS

70.83.060 Annual reports to governor and legislative council. [1967 c 82 § 6.] Repealed by 1977 c 75 § 96.

Chapter 70.94
WASHINGTON CLEAN AIR ACT

70.94.340 Quarterly reports, special studies by director—Distribution. [1961 c 188 § 5.] Repealed by 1977 c 75 § 96.

Title 72
STATE INSTITUTIONS

Chapter 72.01
ADMINISTRATION

72.01.420 Jails and detention facilities—Director to inspect, establish standards and procedures, recommend rules, report to legislature, etc. [1977 c 75 § 85; 1961 c 171 § 32.] Repealed by 1977 1st ex.s. c 316 § 27.

Chapter 72.16
GREEN HILL SCHOOL

72.16.090 Reports. [1959 c 28 § 72.16.090. Prior: 1890 p 276 § 21; RRS § 10308.] Repealed by 1977 c 75 § 96.

Title 73
VETERANS AND VETERANS' AFFAIRS

Chapter 73.24
BURIAL

73.24.040 Burial of deceased volunteers. [1899 c 108 § 1; RRS § 10758.] Repealed by 1977 c 31 § 6.

Chapter 73.28
ARMS TO SONS OF VETERANS

73.28.010 Adjutant general may issue. [1890 p 481 § 1; RRS § 8604.] Repealed by 1977 c 31 § 6.

73.28.020 Application—Contents. [1890 p 481 § 2; RRS § 8605.] Repealed by 1977 c 31 § 6.

73.28.030 Bond for return. [1890 p 482 § 3; RRS § 8606.] Repealed by 1977 c 31 § 6.

73.28.040 Arms to be returned, when and to whom. [1890 p 482 § 4; RRS § 8607.] Repealed by 1977 c 31 § 6.

Title 74
PUBLIC ASSISTANCE

Chapter 74.09
MEDICAL CARE

74.09.140 Statistical and financial analysis. [1959 c 26 § 74.09-140. Prior: 1955 c 273 § 15.] Repealed by 1977 c 75 § 96.

**Title 75
FOOD FISH AND SHELLFISH**

**Chapter 75.08
ADMINISTRATION AND ENFORCEMENT**

75.08.023 Employees may be bonded. [1949 c 112 § 11; Rem. Supp. 1949 § 5780-210. Formerly RCW 43.25.040. Redesignated as RCW 75.08.023 and added to chapter 12, Laws of 1955 and Title 75 RCW by 1965 c 8 § 43.25.040.] Repealed by 1977 1st ex.s. c 270 § 10.

Construction—1977 1st ex.s. c 270: See RCW 43.19.19364.

**Chapter 75.28
LICENSES**

75.28.310 Retail fish dealer's license. [1955 c 12 § 75.28.310. Prior: 1953 c 207 § 3; 1949 c 112 § 72(2); Rem. Supp. 1949 § 5780-510(2).] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

75.28.485 Limitation upon salmon licenses and delivery permits—Evaluation—Recommendations. [1974 ex.s. c 184 § 10.] Repealed by 1977 1st ex.s. c 106 § 9.

Severability—1977 1st ex.s. c 106: See note following RCW 75.30.010.

**Chapter 75.32
PRIVILEGE AND CATCH FEES ON FOOD FISH AND SHELLFISH**

75.32.070 Catch fees required—Exception—Privilege, catch, fees when Oregon fees already paid. [1973 1st ex.s. c 63 § 1; 1963 ex.s. c 10 § 2; 1955 c 12 § 75.32.070. Prior: 1951 c 271 § 35; 1949 c 107 § 1(5), part; Rem. Supp. 1949 § 5780-60(5), part.] Repealed by 1977 1st ex.s. c 327 § 32.

Effective date—1977 1st ex.s. c 327: See note following RCW 75.18.100.

**Title 76
FORESTS AND FOREST PRODUCTS**

**Chapter 76.12
REFORESTATION**

76.12.150 Report on suitable lands. [1923 c 154 § 8; RRS § 5812-8. Prior: 1921 c 169 § 4.] Repealed by 1977 c 75 § 96.

**Title 78
MINES, MINERALS, AND PETROLEUM**

**Chapter 78.40
COAL MINING CODE
ARTICLE III EXAMINING BOARD**

78.40.100 Certificates of competency—Examination—Applicant, citizen. [1943 c 211 § 1; 1927 c 306 § 8; 1917 c 36 § 12; Rem. Supp. 1943 § 8647. Formerly RCW 78.32.210, part and 78.32.240, part.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

78.40.103 Certificates of competency—Time and place of examination. [1917 c 36 § 13; RRS § 8648. Formerly RCW 78.32.210, part.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

78.40.106 Certificates of competency—Notice of examination—Certificates; form, contents, fee. [1917 c 36 § 14; RRS § 8649. Formerly RCW 78.32.220 and 78.32.230, part.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

78.40.109 Certificates of competency—Examination—First class certificates. [1927 c 306 § 9; 1917 c 36 § 15; RRS § 8650. Formerly RCW 78.32.250.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

78.40.112 Certificates of competency. Examination—Second class certificates. [1927 c 306 § 10; 1917 c 36 § 16; RRS § 8651. Formerly RCW 78.32.260.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

78.40.115 Certificates of competency—Cancellation or suspension of certificates. [1917 c 36 § 18; RRS § 8653. Formerly RCW 78.32.270.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

78.40.118 Certificates of competency—Lost certificates—Duplicates. [1917 c 36 § 19; RRS § 8654. Formerly RCW 78.32.280.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

78.40.121 Certificates of competency—Forged or false certificates—Penalty. [1917 c 36 § 20; RRS § 8655. Formerly RCW 78.32.290.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

ARTICLE IV CERTIFICATED MEN

78.40.130 To have certificates. [1917 c 36 § 21; RRS § 8656. Formerly RCW 78.32.200, part.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

78.40.133 To have certificates—Classes. [1917 c 36 § 22; RRS § 8657. Formerly RCW 78.32.200, part.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

78.40.136 Applications for examinations—Fee. [1917 c 36 § 23; RRS § 8658. Formerly RCW 78.32.230, part.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

78.40.139 Qualifications of candidates. [1917 c 36 § 24; RRS § 8659. Formerly RCW 78.32.240, part.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

78.40.142 Qualifications—Foreman. [1917 c 36 § 25; RRS § 8660. Formerly RCW 78.32.440, part.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

78.40.145 Qualifications—Assistant foreman or fire boss. [1917 c 36 § 26; RRS § 8661. Formerly RCW 78.32.440, part.] Repealed by 1977 1st ex.s. c 319 § 9.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

**Title 79
PUBLIC LANDS**

**Chapter 79.40
TRESPASS**

79.40.050 Trespass by cattle, horses, sheep, or goats. [1959 c 257 § 47; 1937 c 165 § 1; RRS § 7797-200a.] Repealed by 1977 c 20 § 2.

79.40.060 Trespass by cattle, horses, sheep, or goats—Penalty. [1937 c 165 § 2; RRS § 7797-200b.] Repealed by 1977 c 20 § 2.

Chapter 79.48**RECLAMATION OF ARID LANDS UNDER CAREY ACT**

79.48.010 Acceptance of grant. [1895 c 166 § 1; RRS § 7922.] Repealed by 1977 c 12 § 1.

79.48.020 Acceptance of condition. [1903 c 152 § 1; RRS § 7923.] Repealed by 1977 c 12 § 1.

79.48.030 Department to administer. [1903 c 152 § 2; RRS § 7924.] Repealed by 1977 c 12 § 1.

79.48.040 Request for selection. [1903 c 152 § 3; RRS § 7925.] Repealed by 1977 c 12 § 1.

79.48.050 Monetary guarantee of performance. [1903 c 152 § 4; RRS § 7926.] Repealed by 1977 c 12 § 1.

79.48.060 Examination and approval of request. [1903 c 152 § 5; RRS § 7927.] Repealed by 1977 c 12 § 1.

79.48.070 List to be filed requesting withdrawal of lands. [1903 c 152 § 6; RRS § 7928.] Repealed by 1977 c 12 § 1.

79.48.080 Contract to be entered into—Terms—Performance bond. [1903 c 152 § 7; RRS § 7929.] Repealed by 1977 c 12 § 1.

79.48.090 Life of contract—Time of commencement of work, etc. [1903 c 152 § 8; RRS § 7930.] Repealed by 1977 c 12 § 1.

79.48.100 Procedure on default of contractor—Receivership. [1903 c 152 § 9; RRS § 7931.] Repealed by 1977 c 12 § 1.

79.48.110 State not liable for work done or contractor's default. [1903 c 152 § 10; RRS § 7932.] Repealed by 1977 c 12 § 1.

79.48.120 Notice that land is open to settlement. [1903 c 152 § 11; RRS § 7933.] Repealed by 1977 c 12 § 1.

79.48.130 Application for entry—Certificate of location—Minimum price. [1973 1st ex.s. c 154 § 115; 1971 ex.s. c 292 § 55; 1903 c 152 § 12; RRS § 7934.] Repealed by 1977 c 12 § 1.

79.48.140 Disposition of funds. [1903 c 152 § 13; RRS § 7935.] Repealed by 1977 c 12 § 1.

79.48.150 Contract of purchase—Payments—Cultivation requirements—Final proof—Patent. [1903 c 152 § 14; RRS § 7936.] Repealed by 1977 c 12 § 1.

79.48.160 Issuance of patent. [1903 c 152 § 15; RRS § 7937.] Repealed by 1977 c 12 § 1.

79.48.170 Water right—Lien for water payments—Foreclosure. [1903 c 152 § 16; RRS § 7938.] Repealed by 1977 c 12 § 1.

79.48.180 Map of works—Right of way for canals, etc. [1903 c 152 § 17; RRS § 7939.] Repealed by 1977 c 12 § 1.

79.48.190 Rules for filing—Annual report of irrigation companies. [1903 c 152 § 18; RRS § 7940.] Repealed by 1977 c 12 § 1.

79.48.200 Fees. [1903 c 152 § 19; RRS § 7941.] Repealed by 1977 c 12 § 1.

79.48.210 Annual report. [1903 c 152 § 20; RRS § 7942.] Repealed by 1977 c 12 § 1.

79.48.220 Water rights extended to state lands. [1903 c 152 § 21; RRS § 7943.] Repealed by 1977 c 12 § 1.

79.48.230 Reimbursement of state. [1903 c 152 § 22; RRS § 7944.] Repealed by 1977 c 12 § 1.

79.48.240 Actions to be in name of state. [1903 c 152 § 23; RRS § 7945.] Repealed by 1977 c 12 § 1.

Title 80 PUBLIC UTILITIES

Chapter 80.50**ENERGY FACILITIES—SITE LOCATIONS**

80.50.050 Adoption of council guidelines as rules. [1975-'76 2nd ex.s. c 108 § 33; 1970 ex.s. c 45 § 5.] Repealed by 1977 1st ex.s. c 371 § 19.

80.50.070 Applications for site certification—Fee—Study. [1975-'76 2nd ex.s. c 108 § 35; 1970 ex.s. c 45 § 7.] Repealed by 1977 1st ex.s. c 371 § 19.

80.50.170 Study of potential sites—Intent of RCW 80.50.175. [1975-'76 2nd ex.s. c 108 § 39; 1974 ex.s. c 110 § 1.] Repealed by 1977 1st ex.s. c 371 § 19.

Title 81 TRANSPORTATION

Chapter 81.44 COMMON CARRIERS—EQUIPMENT

81.44.030 Safety appliances—Locomotives. [1974 ex.s. c 90 § 1; 1961 c 14 § 81.44.030. Prior: 1911 c 117 § 66, part; RRS § 10402, part.] Repealed by 1977 1st ex.s. c 263 § 3. Later enactment, see RCW 81.44.031.

Title 82 EXCISE TAXES

Chapter 82.50 MOBILE HOMES, TRAVEL TRAILERS AND CAMPERS EXCISE

82.50.902 Application of chapter to mobile homes. [1973 c 103 § 5; 1971 ex.s. c 299 § 73.] Repealed by 1977 1st ex.s. c 22 § 9.

Title 84 PROPERTY TAXES

Chapter 84.08 GENERAL POWERS AND DUTIES OF DEPARTMENT OF REVENUE

84.08.090 Biennial reports—Drafts of legislative bills. [1975 1st ex.s. c 278 § 153; 1961 c 15 § 84.08.090. Prior: 1905 c 115 § 4; No RRS.] Repealed by 1977 c 75 § 96.

84.08.100 Advance copies to members of legislature. [1961 c 15 § 84.08.100. Prior: 1905 c 115 § 5; No RRS.] Repealed by 1977 c 75 § 96.

Chapter 84.48 EQUALIZATION OF ASSESSMENTS

84.48.085 Equalization of valuations—Procedure. [1973 1st ex.s. c 195 § 100; 1971 ex.s. c 288 § 8.] Repealed by 1977 1st ex.s. c 29 § 1. Later enactment, see RCW 84.48.075.

Effective date—Construction—1977 1st ex.s. c 29: "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. It is the intent of the legislature that this act shall apply to 1977 assessments of property for 1978 collection." [1977 1st ex.s. c 29 § 2.]

Title 88 NAVIGATION AND HARBOR IMPROVEMENTS

Chapter 88.04 REGULATION OF VESSELS

88.04.010 Director of labor and industries to enforce. [1907 c 200 § 1; RRS § 9843.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.020 Compensation, travel expenses of inspectors. [1975-'76 2nd ex.s. c 34 § 177; 1947 c 137 § 1; 1907 c 200 § 27; RRS § 9869.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.030 Authority of inspectors. [1907 c 200 § 28; RRS § 9870.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.040 Inspection of vessels—Accidents to be investigated. [1907 c 200 § 2; RRS § 9844.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.050 Boiler tests and inspections—Inspection of launches. [1907 c 200 § 3; RRS § 9845.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.060 Certificate of inspection. [1907 c 200 § 4; RRS § 9846.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.070 Inspection and license fees—Disposition of fees. [1907 c 200 § 26; RRS § 9868.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.080 License as master, pilot, or engineer—Examination—Revocation—Penalty. [1907 c 200 § 14; RRS § 9856.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.090 Rules of navigation. [1907 c 200 § 8; RRS § 9850.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.100 Lights. [1907 c 200 § 9; RRS § 9851.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.110 Limit of passengers—Penalty. [1907 c 200 § 5; RRS § 9847.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.120 Precautions against fire. [1907 c 200 § 6; RRS § 9848.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.130 Stairways and gangways—Penalty for obstruction. [1907 c 200 § 7; RRS § 9849.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.140 Fire fighting equipment required. [1907 c 200 § 10; RRS § 9852.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.150 Meddling with safety valves, etc.—Penalty. [1907 c 200 § 13; RRS § 9855.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.160 Combustibles, regulations on carrying. [1907 c 200 § 19; RRS § 9861.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.170 Unsafe steam pressure prohibited—Penalty. [1907 c 200 § 20; RRS § 9862.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.180 Quality of oil in lights. [1907 c 200 § 15; RRS § 9857.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.190 Small boats required on vessels. [1907 c 200 § 11; RRS § 9853.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.200 Landing passengers in small boats. [1907 c 200 § 17; RRS § 9859.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.210 Landing passengers—Engines to be stopped. [1907 c 200 § 18; RRS § 9860.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.220 Life preservers, buckets, axes. [1907 c 200 § 12; RRS § 9854.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.230 Name and home port on stern—Penalty. [1907 c 200 § 16; RRS § 9858.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.240 Penalty—General. [1907 c 200 § 21; RRS § 9863.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.250 Owner liable for conduct of master. [1907 c 200 § 22; RRS § 9864.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.260 Copy of chapter to be posted—Penalty. [1907 c 200 § 23; RRS § 9865.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

88.04.270 Director's report. [1907 c 200 § 24; RRS § 9866.] Repealed by 1977 c 75 § 96, and by 1977 1st ex.s. c 289 § 17, said last repealer not to be effective until June 30, 1979.

88.04.280 Compliance required, exception, penalty—Certificate to continue after expiration, when—Passenger launches on Straits of Juan de Fuca. [1907 c 200 § 25; RRS § 9867. Formerly RCW 88.04-.280 and 88.04.290.] Repealed by 1977 1st ex.s. c 289 § 17, effective June 30, 1979.

Chapter 88.16 PILOTAGE ACT

88.16.030 Rules and regulations. [1971 ex.s. c 297 § 1; 1967 c 15 § 6; 1935 c 18 § 9; RRS § 9871-9. Prior: 1888 p 176 § 4.] Repealed by 1977 1st ex.s. c 337 § 17.

Title 90 WATER RIGHTS—ENVIRONMENT

Chapter 90.48 WATER POLLUTION CONTROL

90.48.295 Grants to municipal or public corporations or political subdivisions to aid water pollution control projects—Biennial report to legislature. [1969 ex.s. c 284 § 2.] Repealed by 1977 c 75 § 96.

Title 91 WATERWAYS

Chapter 91.12 CANAL COMMISSION

91.12.010 Declaration of purpose. [1965 ex.s. c 123 § 1.] Recodified as RCW 47.72.010 pursuant to 1977 1st ex.s. c 151 § 79.

91.12.020 Commission created—Composition—Officers—Terms—Vacancies—Removal. [1965 ex.s. c 123 § 2.] Repealed by 1977 1st ex.s. c 151 § 80.

91.12.030 Members' travel expenses. [1975-'76 2nd ex.s. c 34 § 181; 1967 c 36 § 1; 1965 ex.s. c 123 § 3.] Repealed by 1977 1st ex.s. c 151 § 80.

91.12.040 Commission subject to administrative procedure act. [1965 ex.s. c 123 § 4.] Repealed by 1977 1st ex.s. c 151 § 80.

91.12.050 Powers and duties. [1977 1st ex.s. c 151 § 75; 1965 ex.s. c 123 § 5.] Recodified as RCW 47.72.050 pursuant to 1977 1st ex.s. c 151 § 79.

91.12.060 "Canal" defined. [1965 ex.s. c 123 § 6.] Recodified as RCW 47.72.060 pursuant to 1977 1st ex.s. c 151 § 79.

TITLES 1-91

Title 1 GENERAL PROVISIONS

Chapters

- 1.08 Statute law committee (Code reviser).
- 1.16 General definitions.

Chapter 1.08 STATUTE LAW COMMITTEE (CODE REVISER)

Sections

- 1.08.110 Publication of Washington state register—Rule-making authority.
- 1.08.120 Substitution of words designating department or secretary of transportation.

Voter registration, copy of state-wide computer tape provided to statute law committee: RCW 29.04.160.

1.08.110 Publication of Washington state register—Rule-making authority. The statute law committee, in addition to the other responsibilities enumerated in this chapter, shall cause to be published the Washington State Register as created in RCW 34.08.020. The statute law committee and/or the code reviser may adopt such rules as are necessary for the effective operation of such service. [1977 1st ex.s. c 240 § 2.]

Effective date—1977 1st ex.s. c 240: See note following RCW 34.08.010.

Severability—1977 1st ex.s. c 240: See RCW 34.08.910.

1.08.120 Substitution of words designating department or secretary of transportation. For purposes of harmonizing and clarifying the provisions of the statute sections published in the revised code of Washington, the code reviser may substitute words designating the department of transportation or the secretary of transportation, as appropriate, whenever necessary to effect the changes in meaning provided for in RCW 47.68.015 and 47.04.015 or any other act of the 1977 legislature. [1977 1st ex.s. c 151 § 24.]

Federal requirements—Severability—1977 1st ex.s. c. 151: See RCW 47.98.070 and 47.98.080.

Chapter 1.16 GENERAL DEFINITIONS

Sections

- 1.16.050 "Legal holidays".

1.16.050 "Legal holidays". The following are legal holidays: Sunday; the first day of January, commonly called New Year's Day; the twelfth day of February,

being the anniversary of the birth of Abraham Lincoln; the third Monday of February, being celebrated as the anniversary of the birth of George Washington; the last Monday of May, commonly known as Memorial Day; the fourth day of July, being the anniversary of the Declaration of Independence; the first Monday in September, to be known as Labor Day; the eleventh day of November, to be known as Veterans' Day; the fourth Thursday in November, to be known as Thanksgiving Day; the day immediately following Thanksgiving Day; and the twenty-fifth day of December, commonly called Christmas Day.

Employees of the state and its political subdivisions, except employees of school districts and except those nonclassified employees of institutions of higher education who hold appointments or are employed under contracts to perform services for periods of less than twelve consecutive months, shall be entitled to one paid holiday per calendar year in addition to those specified in this section. Each employee of the state or its political subdivisions may select the day on which the employee desires to take the additional holiday provided for herein after consultation with the employer pursuant to guidelines to be promulgated by rule of the appropriate personnel authority, or in the case of local government by ordinance or resolution of the legislative authority.

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

Whenever any legal holiday, other than Sunday, falls upon a Sunday, the following Monday shall be the legal holiday.

Whenever any legal holiday falls upon a Saturday, the preceding Friday shall be the legal holiday.

Nothing in this section shall be construed to have the effect of adding or deleting the number of paid holidays provided for in an agreement between employees and employers of political subdivisions of the state or as established by ordinance or resolution of the local government legislative authority. [1977 1st ex.s. c 111 § 1; 1975-'76 2nd ex.s. c 24 § 1; 1975 1st ex.s. c 194 § 1; 1973 2nd ex.s. c 1 § 1; 1969 c 11 § 1; 1955 c 20 § 1; 1927 c 51 § 1; RRS § 61. Prior: 1895 c 3 § 1; 1891 c 41 § 1; 1888 p 107 § 1.]

Court business on legal holidays: RCW 2.28.100, 2.28.110.

School holidays: RCW 28A.02.061.

**Title 2
COURTS OF RECORD**

Chapters

- 2.04 Supreme court.
- 2.06 Court of appeals.
- 2.08 Superior courts.
- 2.12 Retirement of judges—Retirement system.
- 2.24 Court commissioners and referees.
- 2.40 Witnesses.
- 2.52 Judicial council.

**Chapter 2.04
SUPREME COURT**

Sections

- 2.04.090 Salary—Timely completion of opinions required.

2.04.090 Salary—Timely completion of opinions required. Each justice of the supreme court shall receive an annual salary of forty-five thousand dollars, but no salary warrant shall be issued to any judge of the supreme court until he shall have made and filed with the state treasurer an affidavit that no matter referred to him for opinion or decision has been uncompleted or undecided by him for more than six months. [1977 1st ex.s. c 318 § 2; 1975 1st ex.s. c 263 § 2; 1974 ex.s. c 149 § 3 (Initiative Measure No. 282); 1973 c 106 § 2; 1972 ex.s c 100 § 1; 1965 ex.s. c 127 § 1; 1957 c 260 § 1; 1953 c 144 § 1. Prior: 1949 c 48 § 2, part; 1947 c 194 § 1, part; 1943 c 50 § 1, part; 1921 c 188 § 1, part; 1919 c 77 § 1, part; 1907 c 57 § 1, part; Rem. Supp. 1949 § 11053, part.]

Effective date—1977 1st ex.s. c 318: See note following RCW 43.03.010.

Severability—Effective date—1975 1st ex.s. c 263: See notes following RCW 43.03.010.

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

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

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

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

**Chapter 2.06
COURT OF APPEALS**

Sections

- 2.06.020 Divisions—Locations—Judges enumerated—Districts.
- 2.06.060 Salaries—Timely completion of opinions required.

- 2.06.075 Appointments to positions created by 1977 1st ex.s. c 49 § 1—Election—Terms of office.
- 2.06.150 Judges pro tempore—Appointment—Oath of office.

2.06.020 Divisions—Locations—Judges enumerated—Districts. The court shall have three divisions, one of which shall be headquartered in Seattle, one of which shall be headquartered in Spokane, and one of which shall be headquartered in Tacoma:

(1) The first division shall have eight judges from three districts, as follows:

(a) District 1 shall consist of King county and shall have six judges;

(b) District 2 shall consist of Snohomish county and shall have one judge; and

(c) District 3 shall consist of Island, San Juan, Skagit and Whatcom counties and shall have one judge.

(2) The second division shall have four judges from the following districts:

(a) District 1 shall consist of Pierce county and shall have two judges;

(b) District 2 shall consist of Clallam, Grays Harbor, Jefferson, Kitsap, Mason, and Thurston counties and shall have one judge;

(c) District 3 shall consist of Clark, Cowlitz, Lewis, Pacific, Skamania, and Wahkiakum counties and shall have one judge.

(3) The third division shall have four judges from the following districts:

(a) District 1 shall consist of Ferry, Lincoln, Okanogan, Pend Oreille, Spokane and Stevens counties and shall have two judges;

(b) District 2 shall consist of Adams, Asotin, Benton, Columbia, Franklin, Garfield, Grant, Walla Walla, and Whitman counties and shall have one judge;

(c) District 3 shall consist of Chelan, Douglas, Kittitas, Klickitat and Yakima counties and shall have one judge. [1977 1st ex.s. c 49 § 1; 1969 ex.s. c 221 § 2.]

Rules of court: Cf. RAP 4.1(b).

Appointments to positions created by the amendment to this section by 1977 1st ex.s. c 49 § 1: See RCW 2.06.075.

2.06.060 Salaries—Timely completion of opinions required. Each judge of the court of appeals shall receive an annual salary of forty-two thousand dollars, but no salary warrant shall be issued to any judge until he shall have made and filed with the state treasurer an affidavit that no matter referred to him for opinion or decision has been uncompleted by him for more than three months. [1977 1st ex.s. c 318 § 3; 1975 1st ex.s. c 263 § 3; 1974 ex.s. c 149 § 4 (Initiative Measure No. 282); 1973 c 106 § 3; 1972 ex.s. c 100 § 2; 1969 ex.s. c 221 § 6.]

Effective date—1977 1st ex.s. c 318: See note following RCW 43.03.010.

Severability—Effective date—1975 1st ex.s. c 263: See notes following RCW 43.03.010.

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

2.06.075 Appointments to positions created by 1977 1st ex.s. c 49 § 1—Election—Terms of office. The

new judicial positions created pursuant to *section 1 of this 1977 amendatory act shall become effective January 1, 1978 and shall be filled by gubernatorial appointment as follows:

(1) Two shall be appointed to the first division, District 1, King county;

(2) One shall be appointed to the second division, District 1, Pierce county; and

(3) One shall be appointed to the third division, District 1, Ferry, Lincoln, Okanogan, Pend Oreille, Spokane, and Stevens counties.

The persons appointed by the governor shall hold office until the general election to be held in November 1978. Upon taking office the two newly appointed judges in Division 1 shall determine by lot the length of term they will be entitled to run for in the general election of 1977. One term will be for one year or until the second Monday in January 1980, and the other for three years or until the second Monday in January 1982, and until their successors are elected and qualified. Thereafter judges shall be elected for a term of six years and until their successors are elected and qualified, commencing with the second Monday in January succeeding their election. At the general election to be held in November 1978, the judges appointed in Division 2 and Division 3 shall be entitled to run for a term of six years or until the second Monday in January 1985, and until their successors are elected and qualified. Thereafter judges shall be elected for a term of six years and until their successors are elected and qualified, commencing with the second Monday in January succeeding their election. [1977 1st ex.s. c 49 § 3.]

*Reviser's note: "section 1 of this 1977 amendatory act" consisted of an amendment to RCW 2.06.020 by 1977 1st ex.s. c 49 § 1.

2.06.150 Judges pro tempore—Appointment—Oath of office. (1) Whenever necessary for the prompt and orderly administration of justice, the chief justice of the supreme court of the state of Washington may appoint any regularly elected and qualified judge of the superior court or any retired judge of a court of record in this state to serve as judge pro tempore of the court of appeals: *Provided, however,* That no judge pro tempore appointed to serve on the court of appeals may serve more than ninety days in any one year.

(2) Before entering upon his duties as judge pro tempore of the court of appeals, the appointee shall take and subscribe an oath of office as provided for in Article IV, section 28 of the state Constitution. [1977 1st ex.s. c 49 § 2; 1973 c 114 § 1.]

**Chapter 2.08
SUPERIOR COURTS**

Sections

- 2.08.061 Judges—King, Spokane, and Pierce counties.
- 2.08.062 Judges—Chelan, Clark, Grays Harbor, Kitsap, Kittitas, and Lewis counties.
- 2.08.064 Judges—Benton, Franklin, Clallam, Jefferson, Snohomish, Asotin, Columbia, Garfield, Cowlitz, Klickitat, and Skamania counties.

- 2.08.065 Judges—Douglas, Grant, Ferry, Okanogan, Mason, Thurston, Pacific, Wahkiakum, Pend Oreille, Stevens, San Juan and Island counties.
- 2.08.090 Salary.

2.08.061 Judges—King, Spokane, and Pierce counties. There shall be in the county of King thirty-four judges of the superior court; in the county of Spokane nine judges of the superior court; in the county of Pierce eleven judges of the superior court: *Provided,* That the additional office herein created for the county of Pierce shall be effective January 1, 1978. [1977 1st ex.s. c 311 § 1; 1973 1st ex.s. c 27 § 1; 1971 ex.s. c 83 § 5; 1969 ex.s. c 213 § 1; 1967 ex.s. c 84 § 1; 1963 c 48 § 1; 1961 c 67 § 1; 1955 c 176 § 1; 1951 c 125 § 3. Prior: 1949 c 237 §§ 1, 3; 1933 ex.s. c 63 § 1; 1927 c 135 § 1, part; 1925 ex.s. c 66 § 1; 1911 c 76 § 1; 1909 c 52 § 1; 1909 c 12 § 1; 1909 c 10 § 1; 1907 c 106 § 1; 1907 c 79 § 1, part; 1905 c 9 § 1; 1895 c 89 § 1, part; 1891 c 68 § 2; 1890 p 341 § 1, part; Rem. Supp. 1949 §§ 11045-1f, 11045-1h; RRS §§ 11045-1, 11045-1a, part.]

Effective date—1977 1st ex.s. c 311: "This 1977 amendatory act shall take effect November 1, 1977." [1977 1st ex.s. c 311 § 6.] This applies to the amendments to RCW 2.08.061, 2.08.062, 2.08.064, and 2.08.065 by 1977 1st ex.s. c 311.

2.08.062 Judges—Chelan, Clark, Grays Harbor, Kitsap, Kittitas, and Lewis counties. There shall be in the county of Chelan one judge of the superior court; in the county of Clark four judges of the superior court; in the county of Grays Harbor two judges of the superior court; in the county of Kitsap four judges of the superior court; in the county of Kittitas one judge of the superior court; in the county of Lewis two judges of the superior court. [1977 1st ex.s. c 311 § 2; 1975-'76 2nd ex.s. c 79 § 1; 1971 ex.s. c 83 § 4; 1967 ex.s. c 84 § 2; 1963 c 48 § 2; 1951 c 125 § 4. Prior: 1945 c 20 § 1, part; 1927 c 135 § 1, part; 1911 c 131 § 1; 1907 c 79 § 1, part; 1907 c 178 § 1, part; 1905 c 36 § 1, part; 1895 c 89 § 1, part; 1891 c 68 § 3, part; 1890 p 341 § 1, part; Rem. Supp. 1945 § 11045-1d, part; RRS § 11045-1, part.]

Effective date—1977 1st ex.s. c 311: See note following RCW 2.08.061.

2.08.064 Judges—Benton, Franklin, Clallam, Jefferson, Snohomish, Asotin, Columbia, Garfield, Cowlitz, Klickitat, and Skamania counties. There shall be in the counties of Benton and Franklin jointly, four judges of the superior court; in the counties of Clallam and Jefferson jointly, two judges of the superior court; in the county of Snohomish seven judges of the superior court; in the counties of Asotin, Columbia and Garfield jointly, one judge of the superior court; in the county of Cowlitz, two judges of the superior court; in the counties of Klickitat and Skamania jointly, one judge of the superior court. [1977 1st ex.s. c 311 § 3; 1974 ex.s. c 192 § 1; 1971 ex.s. c 83 § 3; 1969 ex.s. c 213 § 2; 1967 ex.s. c 84 § 3; 1963 c 35 § 1; 1961 c 67 § 2; 1955 c 19 § 2; 1951 c 125 § 6. Prior: 1945 c 20 § 1, part; 1927 c 135 § 1, part; 1925 ex.s. c 132 § 1; 1917 c 97 §§ 1-3; 1911 c 40 § 1; 1911 c 129 §§ 1, 2, part; 1907 c 79 § 1, part; 1905 c 36 § 1, part; 1895 c 89 § 1, part; 1891 c 68 §§ 1,

3, part; 1890 p 341 § 1, part; Rem. Supp. 1945 § 11045-1d, part; RRS § 11045-1, part.]

Effective date—1977 1st ex.s. c 311: See note following RCW 2.08.061.

2.08.065 Judges—Douglas, Grant, Ferry, Okanogan, Mason, Thurston, Pacific, Wahkiakum, Pend Oreille, Stevens, San Juan and Island counties. There shall be in the counties of Douglas and Grant jointly, two judges of the superior court; in the counties of Ferry and Okanogan jointly, one judge of the superior court; in the counties of Mason and Thurston jointly, four judges of the superior court; in the counties of Pacific and Wahkiakum jointly, one judge of the superior court; in the counties of Pend Oreille and Stevens jointly, one judge of the superior court; and in the counties of San Juan and Island jointly, two judges of the superior court. [1977 1st ex.s. c 311 § 4; 1973 1st ex.s. c 27 § 3; 1971 ex.s. c 83 § 2; 1969 ex.s. c 213 § 3; 1955 c 159 § 1; 1951 c 125 § 7. Prior: 1927 c 135 § 1, part; 1917 c 97 §§ 4, 5, part; 1913 c 17 § 1; 1911 c 131 § 2; 1907 c 79 § 1, part; 1907 c 178 § 1, part; 1903 c 50 § 1, part; 1895 c 89 § 1, part; 1891 c 68 §§ 1, 3, part; 1890 p 341 § 1, part; RRS § 11045-1, part.]

Effective date—1977 1st ex.s. c 311: See note following RCW 2.08.061.

2.08.090 Salary. Each judge of the superior court shall receive an annual salary of thirty-nine thousand dollars. [1977 1st ex.s. c 318 § 4; 1975 1st ex.s. c 263 § 4; 1974 ex.s. c 149 § 5 (Initiative Measure No. 282); 1972 ex.s. c 100 § 3; 1967 c 65 § 1; 1965 ex.s. c 127 § 2; 1957 c 260 § 2; 1953 c 144 § 2. Prior: 1949 c 48 § 2, part; 1947 c 194 § 1, part; 1943 c 50 § 1, part; 1923 c 169 § 1; 1921 c 188 § 1, part; 1919 c 77 § 1, part; 1907 c 57 § 1, part; Rem. Supp. 1949 § 11053, part.]

Effective date—1977 1st ex.s. c 318: See note following RCW 43.03.010.

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

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

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

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

Chapter 2.12

RETIREMENT OF JUDGES—RETIREMENT SYSTEM

Sections

2.12.050 Judges' retirement fund—Created—Contents—Custodian—Records.

2.12.050 Judges' retirement fund—Created—Contents—Custodian—Records. There is hereby created a fund in the state treasury to be known as "The Judges' Retirement Fund" which shall consist of the moneys appropriated from the general fund in the state treasury, as hereinafter provided; the deductions from salaries of judges, as hereinafter provided, all gifts, donations, bequests and devises made for the benefit of

said fund, and the rents, issues and profits thereof, or proceeds of sales of assets thereof. The treasurer shall be custodian of the moneys in said judges' retirement fund. The department of retirement systems shall receive all moneys payable into said fund and make disbursements therefrom as provided in this chapter. The department shall keep written permanent records showing all receipts and disbursements of said fund. [1977 c 75 § 1; 1977 c 18 § 1; 1967 c 28 § 1; 1959 c 192 § 1; 1937 c 229 § 5; RRS § 11054-5.]

Chapter 2.24

COURT COMMISSIONERS AND REFEREES

Juvenile court, court commissioner powers: RCW 13.04.021.

Chapter 2.40

WITNESSES

Sections

2.40.010 Witness fees and mileage.

2.40.010 Witness fees and mileage. Witnesses shall receive for each day's attendance in all courts of record of this state the same compensation per day and per mile as jurors in superior court. Witnesses in any other court shall receive for each day's attendance the same compensation per day and per mile as jurors in justice court. [1977 1st ex.s. c 54 § 1; 1951 c 51 § 3; 1907 c 56 § 1, part; RRS § 497, part. Prior: 1903 c 151 § 1, part; 1893 p 421 § 1, part; Code 1881 § 2086, part.]

Chapter 2.52

JUDICIAL COUNCIL

Sections

2.52.010 Council created—How constituted.
2.52.040 Meetings.
2.52.050 Duties (as amended by 1977 1st ex.s. c 112).
2.52.050 Duties (as amended by 1977 c 75).

2.52.010 Council created—How constituted. There is hereby established a judicial council which shall consist of the following:

(1) The chief justice and one other justice of the supreme court, to be selected and appointed by the chief justice of the supreme court;

(2) Two judges of the court of appeals, to be selected and appointed by the three chief judges of the three divisions thereof;

(3) Two judges of the superior court, to be selected and appointed by the superior court judges' association;

(4) Four members of the state senate, no more than two of whom shall be members of the same political party, one of whom will be the chairman of the senate judiciary committee, two to be designated by the chairman, and one to be designated by the chief justice of the state supreme court; four members of the state house of representatives, no more than two of whom shall be members of the same political party, one of whom shall be the chairman of the house judiciary committee, two

to be designated by the chairman, and one to be designated by the chief justice of the state supreme court; unless the house judiciary committee is organized into two sections, in which case the chairman of each section shall be a member, and they shall designate the third house member, and the chief justice shall designate the fourth house member;

(5) The dean of each recognized school of law within this state;

(6) Eight members of the bar who are practicing law, one of whom shall be either a public defender or a legal services attorney, and at least one of whom is a prosecuting attorney, with the public defender or legal services attorney and three others to be appointed by the chief justice of the supreme court with the advice and consent of the other judges of the court, and four to be appointed by the board of governors of the Washington state bar association from a list of nominees submitted by the legislative committee of the Washington state bar association;

(7) The attorney general;

(8) Two judges from the courts of limited jurisdiction chosen by the Washington state magistrates' association; and

(9) A county clerk to be selected and appointed by the Washington state association of county clerks. [1977 1st ex.s. c 112 § 1; 1973 c 18 § 1; 1971 c 40 § 1; 1967 c 124 § 1; 1961 c 271 § 1; 1955 c 40 § 1; 1925 ex.s. c 45 § 1; RRS § 10959-1.]

Association of superior court judges: Chapter 2.16 RCW.

2.52.040 Meetings. One meeting of the council shall be held within the state each year. Other regular meetings may be provided for by rule. A special meeting may be held anywhere in the state at any time upon call by the chairman or five other members of the council and upon notice given to each member in time to enable him to attend. [1977 1st ex.s. c 112 § 2; 1925 ex.s. c 45 § 4; RRS § 10959-4.]

2.52.050 Duties (as amended by 1977 1st ex.s. c 112). It shall be the duty of the council:

(1) Continuously to survey and study the operation of the judicial department of the state, the volume and condition of business in the courts, whether of record or not, the methods of procedure therein, the work accomplished, and the character of the results;

(2) To receive and consider suggestions from judges, public officers, members of the bar, and citizens as to remedies for faults in the administration of justice;

(3) To devise ways of simplifying judicial procedure, expediting the transaction of judicial business, and correcting faults in the administration of justice;

(4) To submit from time to time to the courts or the judges such suggestions as it may deem advisable for changes in rules, procedure, or methods of administration;

(5) To report biennially to the governor and the legislature with the council's recommendations as to needed changes in the organization of the judicial department or the courts or in judicial procedure; and

(6) To assist the judges in giving effect to Art. 4, Section 25 of the state Constitution. [1977 1st ex.s. c 112 § 3; 1925 ex.s. c 45 § 5; RRS § 10959-5.]

2.52.050 Duties (as amended by 1977 c 75). It shall be the duty of the council:

(1) Continuously to survey and study the operation of the judicial department of the state, the volume and condition of business in the

courts, whether of record or not, the methods of procedure therein, the work accomplished, and the character of the results;

(2) To receive and consider suggestions from judges, public officers, members of the bar, and citizens as to remedies for faults in the administration of justice;

(3) To devise ways of simplifying judicial procedure, expediting the transaction of judicial business, and correcting faults in the administration of justice;

(4) To submit from time to time to the courts or the judges such suggestions as it may deem advisable for changes in rules, procedure, or methods of administration;

(5) To report annually to the governor and the legislature as to needed changes in the organization of the judicial department or the courts or in judicial procedure; and

(6) To assist the judges in giving effect to Art. 4 § 25 of the state Constitution. [1977 c 75 § 2; 1925 ex.s. c 45 § 5; RRS § 10959-5.]

Reviser's note: RCW 2.52.050 was amended twice during the 1977 regular and first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Title 3

JUSTICES OF THE PEACE AND CONSTABLES

Chapters

3.58 Salaries and expenses.

Chapter 3.58

SALARIES AND EXPENSES

Sections

3.58.010 Salaries of full time justices of the peace.

3.58.010 Salaries of full time justices of the peace. The annual salary of each full time justice of the peace shall be thirty-three thousand dollars: *Provided*, That in cities having a population in excess of four hundred thousand, the city which pays the salary may increase such salary of its municipal judges to an amount not more than the salary paid the superior court judges in the county in which the court is located: *Provided further*, That no full time justice of the peace shall perform any civil marriage between 8:00 a.m. and 5:00 p.m. Monday through Friday: *Provided further*, That a member of the legislature whose term of office is partly coextensive with or extends beyond the present term of office of any of the officials whose salary is increased by virtue of the provisions of RCW 43.03.010, 2.04.090, 2.06.060, 2.08.090, and 3.58.010 shall be eligible to be appointed or elected to any of the offices the salary of which is increased hereby but he shall not be entitled to receive such increased salary until after the expiration of his present term of office and his subsequent election or reelection to the office to which he was appointed or elected respectively during his term of office as legislator. [1977 1st ex.s. c 318 § 5; 1975 1st ex.s. c 263 § 5; 1975 c 33 § 3; 1974 ex.s. c 149 § 6 (Initiative Measure No. 282); 1972 ex.s. c 100 § 4; 1969 c 52 § 1; 1965 c 147 § 1; 1961 c 299 § 100.]

Effective date—1977 1st ex.s. c 318: See note following RCW 43.03.010.

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

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

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

Municipal courts, cities over 400,000, judges' salaries: RCW 35.20.160.

Title 4 CIVIL PROCEDURE

Chapters

- 4.16 Limitation of actions.
- 4.24 Special rights of action and special immunities.
- 4.28 Commencement of actions.
- 4.84 Costs.
- 4.92 Actions and claims against state.

Chapter 4.16 LIMITATION OF ACTIONS

Sections

- 4.16.190 Statute tolled by personal disability.

4.16.190 Statute tolled by personal disability. If a person entitled to bring an action mentioned in this chapter, except for a penalty or forfeiture, or against a sheriff or other officer, for an escape, be at the time the cause of action accrued either under the age of eighteen years, or incompetent or disabled to such a degree that he or she cannot understand the nature of the proceedings, such incompetency or disability as determined according to chapter 11.88 RCW, or imprisoned on a criminal charge, or in execution under the sentence of a court for a term less than his natural life, the time of such disability shall not be a part of the time limited for the commencement of action. [1977 1st ex.s. c 80 § 2; 1971 ex.s. c 292 § 74; Code 1881 § 37; 1877 p 9 § 38; 1869 p 10 § 38; 1861 p 61 § 1; 1854 p 364 § 11; RRS § 169.]

Purpose—**Intent**—1977 1st ex.s. c 80: "It is the purpose of the legislature in enacting this 1977 amendatory act to provide for a comprehensive revision of out-dated and offensive language, procedures and assumptions that have previously been used to identify and categorize mentally, physically, and sensory handicapped citizens. It is legislative intent that language references such as idiots, imbeciles, feeble-minded or defective persons be deleted and replaced with more appropriate references to reflect current statute law more recently enacted by the federal government and this legislature. It is legislative belief that use of the undefined term "insanity" be avoided in preference to the use of a process for defining incompetency or disability as fully set forth in chapter 11.88 RCW; that language that has allowed or implied a presumption of incompetency or disability on the basis of an apparent condition or appearance be deleted in favor of a reference to necessary due process allowing a judicial determination of the existence or lack of existence of such incompetency or disability." [1977 1st ex.s. c 80 § 1.]

Severability—1977 1st ex.s. c 80: "If any provision of this 1977 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." [1977 1st ex.s. c 80 § 76.]

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

Adverse possession, personal disability, limitation tolled: RCW 7.28.090.

Chapter 4.24 SPECIAL RIGHTS OF ACTION AND SPECIAL IMMUNITIES

Sections

- 4.24.190 Action against parent for wilful injury to person or property by minor—Monetary limitation—Common law liability preserved.
- 4.24.230 Liability for conversion of goods or merchandise from store or mercantile establishment—Adults, minors—Parents, guardians.
- 4.24.250 Health care practitioner filing charges or presenting evidence—Immunity—Records of review committees or boards not subject to process.
- 4.24.320 Action by owner of damaged or stolen livestock—Treble damages, attorney's fees.
- 4.24.350 Actions for damages which are false, unfounded, malicious, without probable cause or part of conspiracy—Claim or counterclaim for damages may be litigated in principal action.

4.24.190 Action against parent for wilful injury to person or property by minor—Monetary limitation—Common law liability preserved. The parent or parents of any minor child under the age of eighteen years who is living with the parent or parents and who shall wilfully or maliciously destroy property, real or personal or mixed, or who shall wilfully and maliciously inflict personal injury on another person, shall be liable to the owner of such property or to the person injured in a civil action at law for damages in an amount not to exceed three thousand dollars. This section shall in no way limit the amount of recovery against the parent or parents for their own common law negligence. [1977 1st ex.s. c 145 § 1; 1967 ex.s. c 46 § 1; 1961 c 99 § 1.]

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

(2) The parent or legal guardian having the custody of an unemancipated minor who takes possession of any goods, wares or merchandise displayed or offered for sale by any wholesale or retail store or other mercantile establishment without the consent of the owner or seller and with the intention of converting such goods, wares

or merchandise to his own use without having paid the purchase price thereof, shall be liable as a penalty to the owner or seller for the retail value of such goods, wares or merchandise not to exceed five hundred dollars plus an additional penalty of not less than one hundred dollars nor more than two hundred dollars: *Provided*, That for the purposes of this subsection, liability shall not be imposed upon any governmental entity or private agency which has been assigned responsibility for the minor child pursuant to court order or action of the department of social and health services.

(3) Judgments, but not claims, arising under this section may be assigned.

(4) A conviction for violation of chapter 9A.56 RCW shall not be a condition precedent to maintenance of a civil action authorized by this section. [1977 1st ex.s. c 134 § 1; 1975 1st ex.s. c 59 § 1.]

4.24.250 Health care practitioner filing charges or presenting evidence—Immunity—Records of review committees or boards not subject to process. Any health care practitioner as defined in RCW 7.70.020 (1) and (2) as now existing or hereafter amended who, in good faith, files charges or presents evidence against another member of their profession based on the claimed incompetency or gross misconduct of such person before a regularly constituted review committee or board of a professional society or hospital whose duty it is to evaluate the competency and qualifications of members of the profession, including limiting the extent of practice of such person in a hospital or similar institution, shall be immune from civil action for damages arising out of such activities. The written records of such committees or boards shall not be subject to subpoena or discovery proceedings in any civil action, except actions arising out of the recommendations of such committees. [1977 c 68 § 1; 1975 1st ex.s. c 114 § 2; 1971 ex.s. c 144 § 1.]

4.24.320 Action by owner of damaged or stolen livestock—Treble damages, attorney's fees. Any owner of livestock who suffers damages as a result of actions described in RCW 9A.48.070 through 9A.48.090 or any owner of a horse, mule, cow, heifer, bull, steer, swine, or sheep who suffers damages as a result of a wilful, unauthorized act described in RCW 9A.56.080 may bring an action against the person or persons committing the act in a court of competent jurisdiction for exemplary damages up to three times the actual damages sustained, plus attorney's fees. [1977 1st ex.s. c 174 § 3.]

4.24.350 Actions for damages which are false, unfounded, malicious, without probable cause or part of conspiracy—Claim or counterclaim for damages may be litigated in principal action. In any action for damages, whether based on tort or contract or otherwise, a claim or counterclaim for damages may be litigated in the principal action for malicious prosecution on the ground that the action was instituted with knowledge that the same was false, and unfounded, malicious and without probable cause in the filing of such action, or

that the same was filed as a part of a conspiracy to misuse judicial process by filing an action known to be false and unfounded. [1977 1st ex.s. c 158 § 1.]

Chapter 4.28

COMMENCEMENT OF ACTIONS

Sections

4.28.080	Summons, how served.
4.28.185	Personal service out of state—Acts submitting person to jurisdiction of courts—Saving.

4.28.080 Summons, how served. The summons shall be served by delivering a copy thereof, as follows:

(1) If the action be against any county in this state, to the county auditor.

(2) If against any town or incorporated city in the state, to the mayor thereof.

(3) If against a school district, to the superintendent thereof.

(4) If against a railroad corporation, to any station, freight, ticket or other agent thereof within this state.

(5) If against a corporation owning or operating sleeping cars, or hotel cars, to any person having charge of any of its cars or any agent found within the state.

(6) If against a domestic insurance company, to any agent authorized by such company to solicit insurance within this state.

(7) If against a foreign or alien insurance company, as provided in chapter 48.05 RCW.

(8) If against a company or corporation doing any express business, to any agent authorized by said company or corporation to receive and deliver express matters and collect pay therefor within this state.

(9) If the suit be against a company or corporation other than those designated in the preceding subdivisions of this section, to the president or other head of the company or corporation, secretary, cashier or managing agent thereof or to the secretary, stenographer or office assistant of the president or other head of the company or corporation, secretary, cashier or managing agent.

(10) If the suit be against a foreign corporation or nonresident joint stock company, partnership or association doing business within this state, to any agent, cashier or secretary thereof.

(11) If against a minor under the age of fourteen years, to such minor personally, and also to his father, mother, guardian, or if there be none within this state, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed, if such there be.

(12) If against any person for whom a guardian has been appointed for any cause, then to such guardian.

(13) If against a foreign or alien steamship company or steamship charterer, to any agent authorized by such company or charterer to solicit cargo or passengers for transportation to or from ports in the state of Washington.

(14) In all other cases, to the defendant personally, or by leaving a copy of the summons at the house of his usual abode with some person of suitable age and discretion then resident therein.

Service made in the modes provided in this section shall be taken and held to be personal service. [1977 1st ex.s. c 120 § 1; 1967 c 11 § 1; 1957 c 202 § 1; 1893 c 127 § 7; RRS § 226, part. FORMER PART OF SECTION: 1897 c 97 § 1 now codified in RCW 4.28.081.]

Rules of court: Service of process—CR 4(d), (e).

Severability—1977 1st ex.s. c 120: "If any provision of this 1977 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." [1977 1st ex.s. c 120 § 3.] This applies to the amendments to RCW 4.28.080 and 28A.02.070 by 1977 1st ex.s. c 120.

Service of papers on foreign corporation: RCW 23A.32.100.

Service of process on foreign savings and loan association: RCW 33.32.050.

Service of process on nonadmitted foreign corporation: RCW 23A.36.040.

Service of process on nonresident motor vehicle operator: RCW 46.64.040.

4.28.185 Personal service out of state—Acts submitting person to jurisdiction of courts—Saving. (1) Any person, whether or not a citizen or resident of this state, who in person or through an agent does any of the acts in this section enumerated, thereby submits said person, and, if an individual, his personal representative, to the jurisdiction of the courts of this state as to any cause of action arising from the doing of any of said acts:

- (a) The transaction of any business within this state;
- (b) The commission of a tortious act within this state;
- (c) The ownership, use, or possession of any property whether real or personal situated in this state;
- (d) Contracting to insure any person, property or risk located within this state at the time of contracting;
- (e) The act of sexual intercourse within this state with respect to which a child may have been conceived;
- (f) Living in a marital relationship within this state notwithstanding subsequent departure from this state, as to all proceedings authorized by chapter 26.09 RCW, so long as the petitioning party has continued to reside in this state or has continued to be a member of the armed forces stationed in this state.

(2) Service of process upon any person who is subject to the jurisdiction of the courts of this state, as provided in this section, may be made by personally serving the defendant outside this state, as provided in RCW 4.28-.180, with the same force and effect as though personally served within this state.

(3) Only causes of action arising from acts enumerated herein may be asserted against a defendant in an action in which jurisdiction over him is based upon this section.

(4) Personal service outside the state shall be valid only when an affidavit is made and filed to the effect that service cannot be made within the state.

(5) In the event the defendant is personally served outside the state on causes of action enumerated in this section, and prevails in the action, there may be taxed and allowed to the defendant as part of the costs of defending the action a reasonable amount to be fixed by the court as attorneys' fees.

(6) Nothing herein contained limits or affects the right to serve any process in any other manner now or

hereafter provided by law. [1977 c 39 § 1; 1975-'76 2nd ex.s. c 42 § 22; 1959 c 131 § 2.]

Rules of court: Cf. CR 4(e), CR 12(a), CR 82(a).

Severability—Savings—Construction—1975-'76 2nd ex.s. c 42: See RCW 26.26.900–26.26.905.

Uniform parentage act: Chapter 26.26 RCW.

Chapter 4.84 COSTS

Sections

4.84.330 Actions on contract or lease which provides that attorney's fees and costs incurred to enforce provisions be awarded to one of parties—Prevailing party entitled to attorney's fees—Waiver prohibited.

4.84.330 Actions on contract or lease which provides that attorney's fees and costs incurred to enforce provisions be awarded to one of parties—Prevailing party entitled to attorney's fees—Waiver prohibited. In any action on a contract or lease entered into after September 21, 1977, where such contract or lease specifically provides that attorney's fees and costs, which are incurred to enforce the provisions of such contract or lease, shall be awarded to one of the parties, the prevailing party, whether he is the party specified in the contract or lease or not, shall be entitled to reasonable attorney's fees in addition to costs and necessary disbursements.

Attorney's fees provided for by this section shall not be subject to waiver by the parties to any contract or lease which is entered into after September 21, 1977. Any provision in any such contract or lease which provides for a waiver of attorney's fees is void.

As used in this section "prevailing party" means the party in whose favor final judgment is rendered. [1977 1st ex.s. c 203 § 1.]

Chapter 4.92

ACTIONS AND CLAIMS AGAINST STATE

Sections

4.92.040 Judgments—Claims to legislature against state—Payment procedure.

4.92.100 Tortious conduct of state—Claims—Presentment and filing—Contents.

4.92.110 Tortious conduct of state—Presentment and filing of claim prerequisite to suit.

4.92.170 Payments charged to agencies and departments—Apportionments—Reimbursement of tort claims revolving fund—Reports—Insurance.

4.92.040 Judgments—Claims to legislature against state—Payment procedure. (1) No execution shall issue against the state on any judgment.

(2) Whenever a final judgment against the state shall have been obtained in an action on a claim arising out of tortious conduct, the clerk shall make and furnish to the chief fiscal officer of the executive branch a duly certified copy of said judgment and the same shall be paid out of the tort claims revolving fund.

(3) Whenever a final judgment against the state shall have been obtained in any other action, the clerk of the

court shall make and furnish to the chief fiscal officer of the executive branch a duly certified copy of such judgment; the chief fiscal officer of the executive branch shall thereupon audit the amount of damages and costs therein awarded, and the same shall be paid from appropriations specifically provided for such purposes by law.

(4) On and after September 21, 1977, all claims made to the legislature against the state of Washington for money or property, shall be accompanied by a statement of the facts on which such claim is based and such evidence as the claimant intends to offer in support of the claim and shall be filed with the chief fiscal officer of the executive branch who shall retain the same as a record. The chief fiscal officer of the executive branch shall recommend to the legislature whether such claim should be approved or rejected. The legislative committees to whom such claims are referred shall make a transcript or statement of the substance of the evidence given in support of such a claim. If the legislature approves a claim the same shall be paid from appropriations specifically provided for such purpose by law. [1977 1st ex.s. c 144 § 1; 1963 c 159 § 6; 1895 c 95 § 4; RRS § 889.]

"Chief fiscal officer of the executive branch" defined: RCW 43.41.108.

4.92.100 Tortious conduct of state—Claims—Presentment and filing—Contents. All claims against the state for damages arising out of tortious conduct shall be presented to and filed with the chief fiscal officer of the executive branch. All such claims shall be verified and shall accurately describe the conduct and circumstances which brought about the injury or damage, describe the injury or damage, state the time and place the injury or damage occurred, state the names of all persons involved, if known, and shall contain the amount of damages claimed, together with a statement of the actual residence of the claimant at the time of presenting and filing the claim and for a period of six months immediately prior to the time the claim arose. If the claimant is incapacitated from verifying, presenting, and filing his claim or if the claimant is a minor, or is a nonresident of the state, the claim may be verified, presented, and filed on behalf of the claimant by any relative, attorney, or agent representing him.

With respect to the content of such claims this section shall be liberally construed so that substantial compliance will be deemed satisfactory. [1977 1st ex.s. c 144 § 2; 1967 c 164 § 2; 1963 c 159 § 3.]

Purpose—Severability—1967 c 164: See notes following RCW 4.96.010.

"Chief fiscal officer of the executive branch" defined: RCW 43.41.108.

Puget Sound ferry and toll bridge system, claims against: RCW 47.60.250.

4.92.110 Tortious conduct of state—Presentment and filing of claim prerequisite to suit. No action shall be commenced against the state for damages arising out of tortious conduct until a claim has first been presented to and filed with the chief fiscal officer of the executive

branch. The requirements of this section shall not affect the applicable period of limitations within which an action must be commenced, but such period shall begin and shall continue to run as if no claim were required. [1977 1st ex.s. c 144 § 3; 1963 c 159 § 4.]

"Chief fiscal officer of the executive branch" defined: RCW 43.41.108.

4.92.170 Payments charged to agencies and departments—Apportionments—Reimbursement of tort claims revolving fund—Reports—Insurance. Liability for and payment of claims arising out of tortious conduct or under and pursuant to 42 U.S.C. Sec. 1981 et seq. is declared to be a proper charge as part of the normal cost of operating the various agencies and departments of state government whose operations and activities give rise to the liability and a lawful charge against moneys appropriated or available to such agencies and departments.

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

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

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

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

The budget director shall adopt rules and regulations governing the procedures to be followed in making payment from the tort claims revolving fund, in reimbursing the revolving fund and in relieving an agency of its obligation to reimburse. [1977 1st ex.s. c 228 § 2; 1977 c 75 § 3; 1975 1st ex.s. c 126 § 7; 1969 c 140 § 3; 1963 c 159 § 11.]

Reviser's note: "Budget director" changed to "director of the office of program planning and fiscal management", see chapter 43.41 RCW. The "office of program planning and fiscal management" was redesignated the "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

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

Title 5 EVIDENCE

Chapters

5.60 Witnesses—Competency.

Chapter 5.60 WITNESSES—COMPETENCY

Sections

5.60.030 Not excluded on grounds of interest—Exception—Transaction with person since deceased.

5.60.030 Not excluded on grounds of interest—Exception—Transaction with person since deceased. No person offered as a witness shall be excluded from giving evidence by reason of his or her interest in the event of the action, as a party thereto or otherwise, but such interest may be shown to affect his or her credibility: *Provided, however,* That in an action or proceeding where the adverse party sues or defends as executor, administrator or legal representative of any deceased person, or as deriving right or title by, through or from any deceased person, or as the guardian or limited guardian of the estate or person of any incompetent or disabled person, or of any minor under the age of fourteen years, then a party in interest or to the record, shall not be admitted to testify in his or her own behalf as to any transaction had by him or her with, or any statement made to him or her, or in his or her presence, by any such deceased, incompetent or disabled person, or by any such minor under the age of fourteen years: *Provided further,* That this exclusion shall not apply to parties of record who sue or defend in a representative or fiduciary capacity, and have no other or further interest in the action. [1977 1st ex.s. c 80 § 3; 1927 c 84 § 1; Code 1881 § 389; 1877 p 85 § 391; 1873 p 106 § 382; 1869 p 183 § 384; 1867 p 88 § 1; 1854 p 186 § 290; RRS § 1211.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

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Title 6 ENFORCEMENT OF JUDGMENTS

Chapters

6.12 Homesteads.
6.36 Uniform enforcement of foreign judgments act.

Chapter 6.12 HOMESTEADS

Sections

6.12.020 From what homestead may be selected.
6.12.040 Mode of selection—Declaration of homestead.
6.12.050 Value of homestead limited—Must be used as home.
6.12.060 Contents of declaration.
6.12.290 Repealed.
6.12.300 Alienation in case of incompetency or disability of one spouse.
6.12.310 Notice of application for order.
6.12.320 Petition.

6.12.020 From what homestead may be selected. If the claimant be married the homestead may be selected from the community property, or, with the consent of the husband, from his separate property, or, with the consent of the wife, from her separate property: *Provided,* That the same premises may not be claimed separately by the husband and wife with the effect of increasing the net value of the homestead available to the marital community beyond the amount specified in RCW 6.12.050 as now or hereafter amended, either at the time the declaration of homestead is filed or at any subsequent time. When the claimant is not married the homestead may be selected from any of his or her property. [1977 1st ex.s. c 98 § 1; 1973 1st ex.s. c 154 § 6; 1895 c 64 § 2; RRS § 530.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

6.12.040 Mode of selection—Declaration of homestead. In order to select a homestead the claimant must execute and acknowledge, in the same manner as a grant of real property is acknowledged, a declaration of homestead, and file the same for record. [1977 1st ex.s. c 98 § 2; 1973 1st ex.s. c 154 § 8; 1895 c 64 § 30; RRS § 558.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

6.12.050 Value of homestead limited—Must be used as home. Homesteads may be selected and claimed in lands and tenements with the improvements thereon, as defined in RCW 6.12.010, regardless of area but not exceeding in net value, of both the lands and improvements, the sum of twenty thousand dollars. The premises thus included in the homestead must be actually intended or used as a home for the claimant, and shall not be devoted exclusively to any other purpose. [1977 1st ex.s. c 98 § 3; 1971 ex.s. c 12 § 1; 1955 c 29 § 1;

1945 c 196 § 3; 1895 c 64 § 24; Rem. Supp. 1945 § 552.]

Severability—1971 ex.s. c 12: "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 12 § 5.] This applies to RCW 6.12.050, 11.52.010, 11.52.020 and 11.52.022.

6.12.060 Contents of declaration. The declaration of homestead must contain—

(1) A statement that the person making it is residing on the premises or has purchased the same for a homestead and intends to reside thereon and claims them as a homestead.

(2) A description of the premises.

(3) An estimate of their actual cash value. [1977 1st ex.s. c 98 § 4; 1973 1st ex.s. c 154 § 9; 1895 c 64 § 31; RRS § 559.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

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

6.12.300 Alienation in case of incompetency or disability of one spouse. In case of a homestead, if either the husband or wife shall be or become incompetent or disabled to such a degree that he or she is unable to assist in the management of his or her interest in the marital property, upon application of the husband or wife not so incompetent or disabled to the superior court of the county in which the homestead is situated, and upon due proof of such incompetency or disability in the severity required above, the court may make an order permitting the husband or wife applying to the court to sell and convey or mortgage such homestead. [1977 1st ex.s. c 80 § 4; 1895 c 64 § 26; RRS § 554.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

6.12.310 Notice of application for order. Notice of the application for such order shall be given by publication of the same in a newspaper published in the county in which such homestead is situated, if there be a newspaper published therein, once each week for three successive weeks prior to the hearing of such application, and a copy of such notice shall be served upon the alleged incompetent husband or wife personally, and upon the nearest relative of such incompetent or disabled husband or wife other than the applicant, resident in this state, at least three weeks prior to such application being heard, and in case there be no such relative known to the applicant, a copy of such notice shall be served upon the prosecuting attorney of the county in which such homestead is situated; and it is hereby made the duty of such prosecuting attorney, upon being served with a copy of such notice, to appear in court and see that such application is made in good faith, and that the proceedings thereon are fairly conducted. [1977 1st ex.s. c 80 § 5; 1895 c 64 § 27; RRS § 555.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

6.12.320 Petition. Thirty days before the hearing of any application under the provisions of this chapter, the applicant shall present and file in the court in which such application is to be heard a petition for the order mentioned, subscribed and sworn to by the applicant, setting forth the name and age of the alleged incompetent or disabled husband or wife; a description of the premises constituting the homestead; the value of the same; the county in which it is situated; such facts necessary to show that the nonpetitioning husband or wife is incompetent or disabled to the degree required under RCW 6.12.300; and such additional facts relating to the circumstances and necessities of the applicant and his or her family as he or she may rely upon in support of the petition. [1977 1st ex.s. c 80 § 6; 1895 c 64 § 28; RRS § 556.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Chapter 6.36

UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS ACT

Sections	
6.36.020	Repealed.
6.36.025	Filing of foreign judgment—Authorized—Effect.
6.36.030	Repealed.
6.36.035	Affidavit of last address of judgment debtor, creditor—Filing—Notice of filing of judgment—Contents—Effect.
6.36.040	Repealed.
6.36.045	Effect of appeal from or stay of execution of foreign judgment—Grounds for stay of enforcement.
6.36.050	through 6.36.120 Repealed.

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

6.36.025 Filing of foreign judgment—Authorized—Effect. A copy of any foreign judgment authenticated in accordance with the act of congress or the statutes of this state may be filed in the office of the clerk of any superior court of any county of this state. The clerk shall treat the foreign judgment in the same manner as a judgment of the superior court of this state. A judgment so filed has the same effect and is subject to the same procedures, defenses, set-offs, counterclaims, cross-complaints, and proceedings for reopening, vacating, or staying as a judgment of a superior court of this state and may be enforced or satisfied in like manner. [1977 1st ex.s. c 45 § 1.]

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

6.36.035 Affidavit of last address of judgment debtor, creditor—Filing—Notice of filing of judgment—Contents—Effect. (1) At the time of the filing of the foreign judgment, the judgment creditor or the judgment creditor's lawyer shall make and file with the clerk of court an affidavit setting forth the name and

last known post office address of the judgment debtor, and the judgment creditor.

(2) Promptly upon the filing of the foreign judgment and the affidavit, the clerk shall mail notice of the filing of the foreign judgment to the judgment debtor at the address given and shall make a note of the mailing in the docket. The notice shall include the name and post office address of the judgment creditor and the judgment creditor's lawyer if any in this state. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.

(3) No execution or other process for enforcement of a foreign judgment filed hereunder shall issue until ten days after the date the judgment is filed or until ten days after mailing the notice of filing, whether mailed by the clerk or judgment debtor, whichever is later. [1977 1st ex.s. c 45 § 2.]

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

6.36.045 Effect of appeal from or stay of execution of foreign judgment—Grounds for stay of enforcement.

(1) If the judgment debtor shows the superior court of any county that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.

(2) If the judgment debtor shows the superior court of any county any ground upon which enforcement of a judgment of a superior court of any county of this state would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in this state. [1977 1st ex.s. c 45 § 3.]

6.36.050 through 6.36.120 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 7

SPECIAL PROCEEDINGS AND ACTIONS

Chapters

7.28	Ejectment, quieting title.
7.33	Garnishment.
7.36	Habeas corpus.
7.48	Nuisances.
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Chapter 7.28 EJECTMENT, QUIETING TITLE

Sections

7.28.090

Adverse possession—Public lands—Adverse title in infants, etc.

7.28.090 Adverse possession—Public lands—Adverse title in infants, etc. RCW 7.28.070 and 7.28.080 shall not extend to lands or tenements owned by the United States or this state, nor to school lands, nor to lands held for any public purpose. Nor shall they extend to lands or tenements when there shall be an adverse title to such lands or tenements, and the holder of such adverse title is a person under eighteen years of age, or incompetent within the meaning of RCW 11.88.010: *Provided*, Such persons as aforesaid shall commence an action to recover such lands or tenements so possessed as aforesaid, within three years after the several disabilities herein enumerated shall cease to exist, and shall prosecute such action to judgment, or in case of vacant and unoccupied land shall, within the time last aforesaid, pay to the person or persons who have paid the same for his or her betterments, and the taxes, with interest on said taxes at the legal rate per annum that have been paid on said vacant and unimproved land. [1977 1st ex.s. c 80 § 7; 1971 ex.s. c 292 § 7; 1893 c 11 § 5; RRS § 790.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

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

Chapter 7.33 GARNISHMENT

Sections

7.33.040

Application for writ—Affidavit.

7.33.040 Application for writ—Affidavit. Before the issuance of the writ of garnishment the plaintiff or someone in his behalf shall make application therefor by affidavit, stating the facts authorizing the issuance of the writ, including the amount alleged to be due, and that the plaintiff has reason to believe, and does believe, that the garnishee, stating his name and residence, is indebted to the defendant, or that he has in his possession, or under his control, personal property or effects belonging to the defendant, and shall pay to the clerk of the superior court the fee provided by RCW 36.18.020, or to the clerk of the justice court the fee of two dollars. The party applying for this writ shall state in such affidavit whether or not the party who is to be the garnishee is the employer of the defendant. [1977 1st ex.s. c 55 § 1; 1969 ex.s. c 264 § 4.]

Chapter 7.36 HABEAS CORPUS

Sections

7.36.020

Parents, guardians, etc., may act for persons under disability.

7.36.020 Parents, guardians, etc., may act for persons under disability. Writs of habeas corpus shall be granted in favor of parents, guardians, limited guardians where appropriate, spouses, and next of kin, and to enforce the rights, and for the protection of infants and incompetent or disabled persons within the meaning of RCW 11.88.010; and the proceedings shall in all cases conform to the provisions of this chapter. [1977 1st ex.s. c 80 § 8; 1973 1st ex.s. c 154 § 17; Code 1881 § 688; 1877 p 141 § 692; 1869 p 159 § 628; 1854 p 214 § 456; RRS § 1064.]

~~Purpose~~—~~Intent~~—~~Severability~~—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

~~Severability~~—1973 1st ex.s. c 154: See note following RCW 2.12.030.

**Chapter 7.48
NUISANCES**

Sections

7.48.050	Moral nuisances—Definitions.
7.48.052	Moral nuisances.
7.48.054	Moral nuisance—Personal property—Effects of notice.
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7.48.090	Moral nuisance—Contraband—Forfeitures.
7.48.100	Moral nuisance—Immunity of certain motion picture theatre employees.
7.48.900	Severability—Initiative Measure No. 335.

7.48.050 Moral nuisances—Definitions. The definitions set forth in this section shall apply throughout this chapter as they relate to moral nuisances.

(1) "Knowledge" or "knowledge of such nuisance" means having knowledge of the contents and character of the patently offensive sexual conduct which appears in the lewd matter, or knowledge of the acts of lewdness, assignation, or prostitution which occur on the premises.

(2) "Lewd matter" is synonymous with "obscene matter" and means any matter:

(a) Which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and

(b) Which depicts or describes patently offensive representations or descriptions of:

(i) Ultimate sexual acts, normal or perverted, actual or simulated; or

(ii) Masturbation, excretory functions, or lewd exhibition of the genitals or genital area.

Nothing herein contained is intended to include or proscribe any matter which, when considered as a whole, and in the context in which it is used, possesses serious literary, artistic, political, or scientific value.

(3) "Lewdness" shall have and include all those meanings which are assigned to it under the common law.

(4) "Matter" shall mean a motion picture film or a publication or both.

(5) "Moral nuisance" means a nuisance which is injurious to public morals.

(6) "Motion picture film" shall include any:

(a) Film or plate negative;

(b) Film or plate positive;

(c) Film designed to be projected on a screen for exhibition;

(d) Films, glass slides, or transparencies, either in negative or positive form, designed for exhibition by projection on a screen;

(e) Video tape or any other medium used to electronically reproduce images on a screen.

(7) "Person" means any individual, partnership, firm, association, corporation, or other legal entity.

(8) "Place" includes, but is not limited to, any building, structure, or places, or any separate part or portion thereof, whether permanent or not, or the ground itself.

(9) "Publication" shall include any book, magazine, article, pamphlet, writing, printing, illustration, picture, sound recording, or a motion picture film which is offered for sale or exhibited in a coin-operated machine.

(10) "Sale" means a passing of title or right of possession from a seller to a buyer for valuable consideration, and shall include, but is not limited to, any lease or rental arrangement or other transaction wherein or whereby any valuable consideration is received for the use of, or transfer of possession of, lewd matter. [Initiative Measure No. 335 § 1 (Approved November 8, 1977); 1913 c 127 § 1; RRS § 946-1.]

7.48.052 Moral nuisances. The following are declared to be moral nuisances:

(1) Any and every place in the state where lewd films are publicly exhibited as a regular course of business, or possessed for the purpose of such exhibition;

(2) Any and every place in the state where a lewd film is publicly and repeatedly exhibited, or possessed for the purpose of such exhibition;

(3) Any and every lewd film which is publicly exhibited, or possessed for such purpose at a place which is a moral nuisance under this section;

(4) Any and every place of business in the state in which lewd publications constitute a principal part of the stock in trade;

(5) Any and every lewd publication possessed at a place which is a moral nuisance under this section;

(6) Every place which, as a regular course of business, is used for the purpose of lewdness, assignation, or prostitution, and every such place in or upon which acts of

lewdness, assignation, or prostitution are conducted, permitted, carried on, continued, or exist;

(7) All public houses or places of resort where illegal gambling is carried on or permitted; all houses or places within any city, town, or village, or upon any public road, or highway where drunkenness, illegal gambling, fighting, or breaches of the peace are carried on or permitted; all opium dens, or houses, or places of resort where opium smoking is permitted. [Initiative Measure No. 335 § 2 (Approved November 8, 1977).]

7.48.054 Moral nuisance—Personal property—Effects of notice. The following are also declared to be moral nuisances, as personal property used in conducting and maintaining a moral nuisance:

(1) All moneys paid as admission price to the exhibition of any lewd film found to be a moral nuisance;

(2) All valuable consideration received for the sale of any lewd publication which is found to be a moral nuisance;

(3) The furniture, fixtures, and contents of a place which is a moral nuisance.

From and after service of a copy of the notice of hearing of the application for a preliminary injunction, provided for in RCW 7.48.064, upon the place or its manager, acting manager, or person then in charge, all such persons are deemed to have knowledge of the acts, conditions, or things which make such place a moral nuisance. Where the circumstantial proof warrants a determination that a person had knowledge of the moral nuisance prior to such service of process, the court shall make such finding. [Initiative Measure No. 335 § 3 (Approved November 8, 1977).]

7.48.056 Abate moral nuisance—Enjoin owner. In addition to any other remedy provided by law, any act, occupation, structure, or thing which is a moral nuisance may be abated, and the person doing such act or engaged in such occupation, and the owner and agent of the owner of any such structure or thing, may be enjoined as provided in this chapter. [Initiative Measure No. 335 § 4 (Approved November 8, 1977).]

7.48.058 Maintaining action to abate moral nuisance—Bond. The attorney general, prosecuting attorney, city attorney, city prosecutor, or any citizen of the county may maintain an action of an equitable nature in the name of the state of Washington upon the relation of such attorney general, prosecuting attorney, city attorney, city prosecutor, or citizen, to abate a moral nuisance, to perpetually enjoin all persons from maintaining the same, and to enjoin the use of any structure or thing adjudged to be a moral nuisance.

If such action is instituted by a private person, the complainant shall execute a bond to the person against whom complaint is made, with good and sufficient surety to be approved by the court or clerk thereof, in the sum of not less than five hundred dollars, to secure to the party enjoined the damages he may sustain if such action is wrongfully brought, and the court finds there was no reasonable grounds or cause for said action and the case is dismissed for that reason before trial or for

want of prosecution. No bond shall be required of the attorney general, prosecuting attorney, city attorney, or city prosecutor, and no action shall be maintained against such public official for his official action when brought in good faith. [Initiative Measure No. 335 § 5 (Approved November 8, 1977).]

7.48.060 Moral nuisance—Jurisdiction—Filing a complaint. The action provided for in RCW 7.48.058 shall be brought in any court of competent jurisdiction in the county in which the property is located. Such action shall be commenced by the filing of a verified complaint alleging the facts constituting the nuisance. After the filing of said complaint, application for a temporary injunction may be made to the court in which the action is filed, or to a judge thereof, who shall grant a hearing within ten days after the filing. [Initiative Measure No. 335 § 6 (Approved November 8, 1977); 1913 c 127 § 2; RRS § 946-2.]

7.48.062 Moral nuisance—Restraining order—Violations. Where such application for a temporary injunction is made, the court or judge thereof may, on application of the complainant showing good cause, issue an ex parte restraining order, restraining the defendant and all other persons from removing or in any manner interfering with the personal property and contents of the place where such nuisance is alleged to exist, until the decision of the court or judge granting or refusing such temporary injunction and until the further order of the court thereon, except that pending such decision, the stock in trade may not be so restrained, but an inventory and full accounting of all business transactions may be required.

The restraining order may be served by handing to and leaving a copy of such order with any person in charge of such place or residing therein, or by posting a copy thereof in a conspicuous place at or upon one or more of the principal doors or entrances to such place, or by both such delivery and posting. The officer serving such restraining order shall forthwith make and return into court an inventory of the personal property and contents situated in and used in conducting or maintaining such nuisance.

Any violation of such restraining order is a contempt of court, and where such order is posted, mutilation or removal thereof while the same remains in force is a contempt of court if such posted order contains therein a notice to that effect. [Initiative Measure No. 335 § 7 (Approved November 8, 1977).]

7.48.064 Moral nuisance—Hearing—Notice—Consolidation with trial. A copy of the complaint, together with a notice of the time and place of the hearing of the application for a temporary injunction, shall be served upon the defendant at least three days before such hearing. The place may also be served by posting such papers in the same manner as is provided for in RCW 7.48.062 in the case of a restraining order. If the hearing is then continued at the instance of any defendant, the temporary writ as prayed shall be granted as a matter of course.

Before or after the commencement of the hearing of an application for a temporary injunction, the court, on application of either of the parties or on its own motion, may order the trial of the action on the merits to be advanced and consolidated with the hearing on the application for the temporary injunction. Any evidence received upon an application for a temporary injunction which would be admissible in the trial on the merits becomes a part of the record of the trial and need not be repeated as to such parties at the trial on the merits. [Initiative Measure No. 335 § 8 (Approved November 8, 1977).]

7.48.066 Finding of moral nuisance—Orders. If upon hearing, the allegations of the complaint are sustained to the satisfaction of the court or judge, the court or judge shall issue a temporary injunction without additional bond, restraining the defendant and any other person from continuing the nuisance.

If at the time the temporary injunction is granted, it further appears that the person owning, in control of, or in charge of the nuisance so enjoined had received three days notice of the hearing, then the court shall declare a temporary forfeiture of the use of the real property upon which such public nuisance is located and the personal property located therein, and shall forthwith issue an order closing such place against its use for any purpose until a final decision is rendered on the application for a permanent injunction, unless:

(1) The person owning, in control of, or in charge of such nuisance shows to the satisfaction of the court or judge, by competent and admissible evidence which is subject to cross-examination, that the nuisance complained of has been abated by such person; or

(2) The owner of such property, as a "good faith" lessor, has taken action to void said lease as is authorized by RCW 7.48.085.

Such order shall also continue in effect for such further period as the order authorized in RCW 7.48.062 provides. If no order has been issued pursuant to RCW 7.48.062, then an order restraining the removal or interference with the personal property and contents located therein shall be issued. Such restraining order shall be served and the inventory of such property shall be made and filed as provided for in RCW 7.48.062.

Such order shall also require such persons to show cause within thirty days why such closing order should not be made permanent, as provided for in RCW 7.48.078. [Initiative Measure No. 335 § 9 (Approved November 8, 1977).]

7.48.068 Abatement of moral nuisance by owner—Effect on injunction. The owner of any real or personal property to be closed or restrained, or which has been closed or restrained, may appear after the filing of the complaint and before the hearing on the application for a permanent injunction.

The court, if satisfied of the good faith of the owner of the real property and of the innocence on the part of any owner of the personal property of any knowledge of its use as a nuisance, and that with reasonable care and diligence such owner could not have known thereof shall,

at the time of the hearing on the application for the temporary injunction and upon payment of all costs incurred and upon the filing of a bond by the owner of the real property with sureties to be approved by the clerk in the full value of the property to be ascertained by the court, conditioned that such owner will immediately abate the nuisance and prevent the same from being established or kept, refrain from issuing any order closing such real property or restraining the removal or interference with such personal property, and, if such temporary injunction has already been issued, shall cancel said order and shall deliver such real or personal property, or both, to the respective owners thereof. The release of any real or personal property under this section shall not release it from any judgment, lien, penalty, or liability to which it may be subjected by law. [Initiative Measure No. 335 § 10 (Approved November 8, 1977).]

Voluntary abatement: RCW 7.48.110.

7.48.070 Moral nuisance—Priority of action on calendar. The action provided for in RCW 7.48.058 shall be set down for trial at the first term of the court and shall have precedence over all other cases except crimes, election contests, or injunctions. [Initiative Measure No. 335 § 11 (Approved November 8, 1977); 1913 c 127 § 3; RRS § 946-3.]

7.48.072 Moral nuisance—Effects of admission or finding of guilt. In such action, an admission or finding of guilty of any person under the criminal laws against lewdness, prostitution, or assignation at any such place is admissible for the purpose of proving the existence of such nuisance, and is prima facie evidence of such nuisance and of knowledge of, and of acquiescence and participation therein, on the part of the person charged with maintaining such nuisance. [Initiative Measure No. 335 § 12 (Approved November 8, 1977).]

7.48.074 Moral nuisance—Evidence of reputation—Admissibility. At all hearings upon the merits, evidence of the general reputation of the building or place constituting the alleged nuisance, of the inmates thereof, and of those resorting thereto, is admissible for the purpose of proving the existence of such nuisance. [Initiative Measure No. 335 § 13 (Approved November 8, 1977).]

7.48.076 Moral nuisance—Trial—Costs—Dismissal—Judgment. If the action is brought by a person who is a citizen of the county, and the court finds that there were no reasonable grounds or probable cause for bringing said action, and the case is dismissed before trial for that reason or for want of prosecution, the costs, including attorney's fees, may be taxed to such person.

If the existence of the nuisance is established upon the trial, a judgment shall be entered which shall perpetually enjoin the defendant and any other person from further maintaining the nuisance at the place complained of, and the defendant from maintaining such nuisance elsewhere. The entire expenses of such abatement, including

attorney's fees, shall be recoverable by the plaintiff as a part of his costs of the lawsuit.

If the complaint is filed by a person who is a citizen of the county, it shall not be dismissed except upon a sworn statement by the complainant and his attorney, setting forth the reason why the action should be dismissed and the dismissal approved by the prosecuting attorney in writing or in open court. If the judge is of the opinion that the action should not be dismissed, he may direct the prosecuting attorney to prosecute said action to judgment at the expense of the county, and if the action is continued for more than one term of court, any person who is a citizen of the county or has an office therein, or the attorney general, the prosecuting attorney, city attorney, or city prosecutor, may be substituted for the complainant and prosecute said action to judgment. [Initiative Measure No. 335 § 14 (Approved November 8, 1977).]

7.48.078 Moral nuisance—Judgment—Penalties—Disposal of personal property. If the existence of a nuisance is admitted or established in an action as provided for in RCW 7.48.058 or in a criminal proceeding, an order of abatement shall be entered as a part of the judgment in the case, which order shall direct the removal from the place of all personal property and contents used in conducting the nuisance and not already released under authority of the court as provided for in RCW 7.48.066 and 7.48.068, and shall direct the sale of such thereof as belong to the defendants notified or appearing, in the manner provided for the sale of chattels under execution. Lewd matter shall be destroyed and shall not be sold.

Such judgment shall impose a penalty of three hundred dollars for the maintenance of such nuisance, which penalty shall be imposed against the person or persons found to have maintained the nuisance, and, in case any owner or agent of the building found to have had actual or constructive notice of the maintenance of such nuisance, against such owner or agent, and against the building kept or used for the purposes of maintaining a moral nuisance, which penalty shall be collected by execution as in civil actions, and when collected, shall be paid into the current expense fund of the county in which the judgment is had.

Such order shall also require the renewal for one year of any bond furnished by the owner of the real property, as provided in RCW 7.48.068 or, if not so furnished, shall continue for one year any closing order issued at the time of granting the temporary injunction, or, if no such closing order was then issued, shall include an order directing the effectual closing of the place against its use for any purpose and keeping it closed for a period of one year unless sooner released.

The owner of any place closed and not released under bond may then appear and obtain such release in the manner and upon fulfilling the requirements provided in RCW 7.48.068.

Owners of unsold personal property and contents so seized must appear and claim the same within ten days after such order of abatement is made, and prove innocence to the satisfaction of the court of any knowledge

of such use thereof, and that with reasonable care and diligence they could not have known thereof. If such innocence is established, such unsold personal property and contents shall be delivered to the owner, otherwise it shall be sold as provided in this section. For removing and selling the personal property and contents, the officer shall be entitled to charge and receive the same fees as he would for levying upon and selling like property on execution; and for closing the place and keeping it closed, a reasonable sum shall be allowed by the court. [Initiative Measure No. 335 § 15 (Approved November 8, 1977).]

7.48.080 Moral nuisance—Contempt for violation of injunction. In case of the violation of any injunction granted under the provisions of RCW 7.48.050 through 7.48.100 as now or hereafter amended, the court or judge may summarily try and punish the offender. The proceedings shall be commenced by filing with the clerk of the court an information under oath, setting out the alleged facts constituting such violation, upon which the court or judge shall cause an attachment to issue, under which the defendant shall be arrested. The trial may be had upon affidavits, or either party may demand the production and oral examination of the witnesses. A party found guilty of contempt under the provisions of this section shall be punished by a fine of not less than two hundred nor more than one thousand dollars, or by imprisonment in the county jail not less than three nor more than six months, or by both fine and imprisonment. [Initiative Measure No. 335 § 16 (Approved November 8, 1977); 1913 c 127 § 4; RRS § 946-4.]

7.48.085 Moral nuisance—Property owner may repossess. If a tenant or occupant of a building or tenement, under a lawful title, uses such place for the purposes of maintaining a moral nuisance, such use makes void at the option of the owner the lease or other title under which he holds, and without any act of the owner causes the right of possession to revert and vest in such owner, who may without process of law make immediate entry upon the premises. [Initiative Measure No. 335 § 17 (Approved November 8, 1977).]

7.48.090 Moral nuisance—Contraband—Forfeitures. Lewd matter is contraband, and there are no property rights therein. All personal property declared to be a moral nuisance in RCW 7.48.052 and 7.48.054 and all moneys and other consideration declared to be a moral nuisance under RCW 7.48.056 are the subject of forfeiture to the local government and are recoverable as damages in the county wherein such matter is sold, exhibited, or otherwise used. Such moneys may be traced to and shall be recoverable from persons who, under RCW 7.48.064, have knowledge of the nuisance at the time such moneys are received by them.

Upon judgment against the defendants in legal proceedings brought pursuant to RCW 7.48.050 through 7.48.100 as now or hereafter amended, an accounting shall be made by such defendant or defendants of all moneys received by them which have been declared to be a public nuisance under this section. An amount equal to

the sum of all moneys estimated to have been taken in as gross income from such unlawful commercial activity shall be forfeited to the general funds of the city and county governments wherein such matter is sold or exhibited, to be shared equally, as a forfeiture of the fruits of an unlawful enterprise and as partial restitution for damages done to the public welfare, public health, and public morals.

Where the action is brought pursuant to RCW 7.48-.050 through 7.48.100 as now or hereafter amended, special injury need not be proven, and the costs of abatement are a lien on both the real and personal property used in maintaining the nuisance. Costs of abatement include, but are not limited to the following:

- (1) Investigative costs;
- (2) Court costs;
- (3) Reasonable attorney's fees arising out of the preparation for and trial of the cause, appeals therefrom, and other costs allowed on appeal;
- (4) Printing costs of trial and appellate briefs, and all other papers filed in such proceedings. [Initiative Measure No. 335 § 18 (Approved November 8, 1977); 1927 c 94 § 1; 1913 c 127 § 5; RRS § 946-5.]

7.48.100 Moral nuisance—Immunity of certain motion picture theatre employees. The provisions of any criminal statutes with respect to the exhibition of, or the possession with the intent to exhibit, any obscene film shall not apply to a motion picture projectionist, usher, or ticket taker acting within the scope of his employment, if such projectionist, usher, or ticket taker (1) has no financial interest in the place wherein he is so employed, other than his salary, and (2) freely and willingly gives testimony regarding such employment in any judicial proceedings brought under RCW 7.48.050 through 7.48.100 as now or hereafter amended, including pretrial discovery proceedings incident thereto, when and if such is requested, and upon being granted immunity by the trial judge sitting in such matters. [Initiative Measure No. 335 § 19 (Approved November 8, 1977); 1927 c 94 § 2; 1913 c 127 § 6; RRS § 946-6.]

7.48.900 Severability—Initiative Measure No. 335. If any provision of this 1977 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. [Initiative Measure No. 335 § 20 (Approved November 8, 1977).]

Chapter 7.52 PARTITION

Sections

- 7.52.460 Guardian or limited guardian of incompetent or disabled person may receive proceeds—Bond.
7.52.470 Guardian or limited guardian may consent to partition.

7.52.460 Guardian or limited guardian of incompetent or disabled person may receive proceeds—Bond. The guardian or limited guardian who may be entitled

to the custody and management of the estate of an incompetent or disabled person adjudged incapable of conducting his own affairs, whose interest in real property shall have been sold, may receive in behalf of such person his share of the proceeds of such real property from the referees, on executing a bond with sufficient sureties, approved by the judge of the court, conditioned that he faithfully discharge the trust reposed in him, and will render a true and just account to the person entitled, or to his legal representative. [1977 1st ex.s. c 80 § 9; Code 1881 § 597; 1877 p 124 § 602; 1869 p 142 § 551; RRS § 883.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

7.52.470 Guardian or limited guardian may consent to partition. The general guardian of an infant, and the guardian or limited guardian entitled to the custody and management of the estate of an incompetent or disabled person adjudged incapable of conducting his own affairs, who is interested in real estate held in common or in any other manner, so as to authorize his being made a party to an action for the partition thereof, may consent to a partition without suit and agree upon the share to be set off to such infant or other person entitled, and may execute a release in his behalf to the owners of the shares or parts to which they may respectively be entitled, and upon an order of the court. [1977 1st ex.s. c 80 § 10; Code 1881 § 598; 1877 p 124 § 603; 1869 p 142 § 552; RRS § 884.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Chapter 7.68

VICTIMS OF CRIMES—COMPENSATION

Sections

- 7.68.010 Intent.
7.68.020 Definitions.
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7.68.075 Marital status—Payment for or on account of children.
7.68.110 Appeals.
7.68.130 Collateral resources.
7.68.905 Severability—Construction—1977 1st ex.s. c 302.

7.68.010 Intent. It is the intent of the legislature of the state of Washington to provide a method of compensating and assisting innocent victims of criminal acts who suffer bodily injury or death as a consequence thereof. To that end, it is the intention of the legislature to make certain of the benefits and services which are now or hereafter available to injured workmen under Title 51 RCW also available to innocent victims of crime as defined and provided for in this chapter. [1977 1st ex.s. c 302 § 1; 1973 1st ex.s. c 122 § 1.]

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

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

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

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

(4) "Child", "accredited school", "dependent", "beneficiary", "average monthly wage", "director", "injury", "invalid", "permanent partial disability", and "permanent total disability" shall have the meanings assigned to them in chapter 51.08 RCW as now or hereafter amended.

(5) "Gainfully employed" means engaging on a regular and continuous basis in a lawful activity from which a person derives a livelihood. [1977 1st ex.s. c 302 § 2; 1975 1st ex.s. c 176 § 1; 1973 1st ex.s. c 122 § 2.]

7.68.035 Penalty assessments in addition to fine or bail forfeiture—Crime victims compensation account created.

(1) Whenever any person is found guilty in any court of competent jurisdiction of having committed an act prohibited under the provisions of Title 9A RCW as now or hereafter amended, which act involved a victim and is punishable as a felony or gross misdemeanor, there shall be imposed by the court upon such convicted person a penalty assessment in the amount of twenty-five dollars or ten percent of any other penalty or fine, whichever is greater, which penalty assessment shall be in addition to any other penalty or fine imposed by law.

(2) Whenever any person accused of having committed a criminal act prohibited under the provisions of

Title 9A RCW as now or hereafter amended, which act involved a victim and is punishable as a felony or gross misdemeanor, posts bail pursuant to the provisions of chapter 10.19 RCW, and such bail is forfeited, there shall be deducted from the proceeds of such forfeited bail a penalty assessment of twenty-five dollars, in addition to any other penalty or fine imposed by law.

(3) Notwithstanding any other provision of law, such penalty assessments shall be paid by the clerk of the court to the city or county treasurer, as the case may be, who shall monthly transmit such penalty assessments to the state treasurer. The state treasurer shall deposit such assessments in an account within the state general fund to be known as the crime victims compensation account, hereby created, and all moneys derived from such assessments shall be used exclusively for the administration of this chapter. [1977 1st ex.s. c 302 § 10.]

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

7.68.050 Right of action for damages—Subrogation. No right of action at law for damages incurred as a consequence of a criminal act shall be lost as a consequence of being entitled to benefits under the provisions of this chapter. In the event any person entitled to benefits under this chapter additionally seeks a remedy for damages incurred as a consequence of a criminal act, then and in that event the department shall be subrogated to the rights of such person and have a lien upon any recovery so made to the extent of the benefits paid or payable by the department to or on behalf of such person under this chapter. If the recovery involved is against the state, the lien of the department shall include the interest on the benefits paid by the department to or on behalf of such person under this chapter computed at the rate of eight percent per annum from the date of payment. [1977 1st ex.s. c 302 § 3; 1973 1st ex.s. c 122 § 5.]

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

(1) An application for benefits is not received by the department within one year after the date of the criminal act or the date the rights of dependents or beneficiaries accrued, or

(2) The criminal act is not reported by the victim or someone on his behalf to a local police department or sheriff's office within seventy-two hours of its occurrence or, if it could not reasonably have been reported within that period, within seventy-two hours of the time when a report could reasonably have been made. [1977 1st ex.s. c 302 § 4; 1975 1st ex.s. c 176 § 2; 1973 1st ex.s. c 122 § 6.]

7.68.065 Duty of law enforcement agencies to inform victim of right to benefits. Each law enforcement

agency to which a criminal act has been reported and which criminal act results in physical injury or death to a victim shall make a reasonable effort to inform the known victim or his surviving dependent(s) of the existence of this chapter and the procedure for making application for benefits provided by this chapter: *Provided*, That the failure to so act will not stay the operation of RCW 7.68.060. [1977 1st ex.s. c 302 § 9.]

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

(1) The provisions contained in RCW 51.32.015, 51.32.030, 51.32.072, 51.32.073, 51.32.180, 51.32.190 and 51.32.200 as now or hereafter amended are not applicable to this chapter.

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

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

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

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

(c) The result of an act or acts committed by a person who is at the time of the criminal act the spouse, child, parent, or sibling of the victim by the half or whole blood, adoption or marriage, or the parent of the spouse of or sibling of the spouse of the victim by the half or whole blood, adoption, or marriage, or the son-in-law or daughter-in-law of the victim, unless in the director's sole discretion it is determined that:

(i) The parties to the marriage which establishes the relationship between the person committing the criminal act and the victim described above are estranged and living apart, and

(ii) The interests of justice require otherwise in the particular case;

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

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

(4) The benefits established upon the death of a workman and contained in RCW 51.32.050 as now or

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

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

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

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

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

(5) The benefits established in RCW 51.32.060 as now or hereafter amended for permanent total disability proximately caused by the criminal act shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section shall apply under this chapter: *Provided*, That in the event a victim becomes permanently and totally disabled as a proximate result of the criminal act and was not gainfully employed at the time of the criminal act, such victim shall receive monthly during the period of such disability the following percentages, where applicable, of the average monthly wage determined as of the date of the criminal act pursuant to RCW 51.08.018 as now or hereafter amended:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) The provisions relating to payment of benefits to, for or on behalf of workmen contained in RCW 51.32-.040, 51.32.055, 51.32.100, 51.32.110, 51.32.120, 51.32-.135, 51.32.140, 51.32.150, 51.32.160 and 51.32.210 as now or hereafter amended shall be applicable to payment of benefits to, for or on behalf of victims under this chapter.

(11) No person or spouse, child, or dependent of such person shall be entitled to benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator(s) of the criminal act which

gave rise to the claim. [1977 1st ex.s. c 302 § 5; 1975 1st ex.s. c 176 § 3; 1973 1st ex.s. c 122 § 7.]

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

Payments for or on account of any such child or children shall cease when such child is no longer a "child" as defined in RCW 51.08.030, as now or hereafter amended, or on the death of any such child whichever occurs first.

Payments to the victim or surviving spouse for or on account of any such child or children shall be made only when the victim or surviving spouse has legal custody of any such child or children. Where the victim or surviving spouse does not have such legal custody any payments for or on account of any such child or children shall be made to the person having legal custody of such child or children and the amount of payments shall be subtracted from the payments which would have been due the victim or surviving spouse had legal custody not been transferred to another person. [1977 1st ex.s. c 302 § 6; 1975 1st ex.s. c 176 § 9.]

7.68.110 Appeals. The provisions contained in chapter 51.52 RCW as now or hereafter amended relating to appeals shall govern appeals under this chapter: *Provided*, That no provision contained in chapter 51.52 RCW concerning employers as parties to any settlement, appeal, or other action shall apply to this chapter: *Provided further*, That appeals taken from a decision of the board of industrial insurance appeals under this chapter shall be governed by the provisions relating to judicial review of administrative decisions contained in RCW 34.04.130 and 34.04.140 as now or hereafter amended, and the department shall have the same right of review from a decision of the board of industrial insurance appeals as does the claimant. [1977 1st ex.s. c 302 § 7; 1975 1st ex.s. c 176 § 5; 1973 1st ex.s. c 122 § 11.]

7.68.130 Collateral resources. Benefits payable pursuant to this chapter shall be reduced by the amount of any other public or private insurance, industrial insurance, or medical health or disability benefits available. Payment by the department under this chapter shall be secondary to such other insurance or benefits, notwithstanding the provision of any contract or coverage to the contrary: *Provided*, That in the case of life insurance proceeds, the first forty thousand dollars of such proceeds shall not be considered for purposes of any such reduction in benefits. [1977 1st ex.s. c 302 § 8; 1973 1st ex.s. c 122 § 13.]

7.68.905 Severability—Construction—1977 1st ex.s. c 302. (1) 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.

(2) Subsection (1) of this section shall be effective retroactively to July 1, 1974. [1977 1st ex.s. c 302 § 12.]

**Title 8
EMINENT DOMAIN**

Chapters

- 8.12 Eminent domain by cities.
- 8.25 Additional provisions applicable to eminent domain proceedings.

**Chapter 8.12
EMINENT DOMAIN BY CITIES**

Sections

- 8.12.180 CONDEMNATION Repealed.

CONDEMNATION

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

**Chapter 8.25
ADDITIONAL PROVISIONS APPLICABLE TO
EMINENT DOMAIN PROCEEDINGS**

Sections

- 8.25.075 Costs—Award to condemnee or plaintiff—Conditions.
- 8.25.270 Appointment of guardian ad litem for infants, incompetent or disabled persons—Protection of interests.

8.25.075 Costs—Award to condemnee or plaintiff—Conditions. (1) A superior court having jurisdiction of a proceeding instituted by a condemnor to acquire real property shall award the condemnee costs including reasonable attorney fees and reasonable expert witness fees if:

(a) There is a final adjudication that the condemnor cannot acquire the real property by condemnation; or

(b) The proceeding is abandoned by the condemnor.

(2) In effecting a settlement of any claim or proceeding in which a claimant seeks an award from an acquiring agency for the payment of compensation for the taking or damaging of real property for public use without just compensation having first been made to the owner, the attorney general or other attorney representing the acquiring agency may include in the settlement

amount, when appropriate, costs incurred by the claimant, including reasonable attorneys' fees and reasonable expert witness fees.

(3) A superior court rendering a judgment for the plaintiff awarding compensation for the taking or damaging of real property for public use without just compensation having first been made to the owner shall award or allow to such plaintiff costs including reasonable attorney fees and reasonable expert witness fees, but only if the judgment awarded to the plaintiff as a result of trial exceeds by ten percent or more the highest written offer of settlement submitted by the acquiring agency to the plaintiff at least thirty days prior to trial.

(4) Reasonable attorney fees and expert witness fees as authorized in this section shall be subject to the provisions of subsection (4) of RCW 8.25.070 as now or hereafter amended. [1977 1st ex.s. c 72 § 1; 1971 ex.s. c 240 § 21.]

Severability—1971 ex.s. c 240: See RCW 8.26.900.

8.25.270 Appointment of guardian ad litem for infants, incompetent or disabled persons—Protection of interests. When it shall appear in any petition or otherwise at any time during the proceedings for condemnation brought pursuant to chapters 8.04, 8.08, 8.12, 8.16, 8.20, and 8.24 RCW, each as now or hereafter amended, that any infant, or allegedly incompetent or disabled person is interested in any property that is to be taken or damaged, the court shall appoint a guardian ad litem for such infant or allegedly incompetent or disabled person to appear and assist in his, her or their defense unless a guardian or limited guardian has previously been appointed, in which case the duty to appear and assist shall be delegated to the properly qualified guardian or limited guardian. The court shall make such orders or decrees as it shall deem necessary to protect and secure the interest of the infant or allegedly incompetent or disabled person in the property sought to be condemned or the compensation which shall be awarded therefore. [1977 1st ex.s. c 80 § 12.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

**Title 9
CRIMES AND PUNISHMENTS**

Chapters

- 9.01 General provisions.
- 9.45 Frauds and swindles.
- 9.46 Gambling—1973 Act.
- 9.61 Malicious mischief—Injury to property.
- 9.73 Privacy, violating right of.
- 9.81 Subversive activities.
- 9.94 Prisoners—State penal institutions.
- 9.95 Prison terms, paroles and probation.

Chapter 9.01
GENERAL PROVISIONS

Sections

9.01.200 Defense of person or property against heinous crime—Reimbursement by state for expenses of defendant.

9.01.200 Defense of person or property against heinous crime—Reimbursement by state for expenses of defendant. No person in the state shall be placed in legal jeopardy of any kind whatsoever for protecting by any reasonable means necessary, himself, his family, or his real or personal property, or for coming to the aid of another who is in imminent danger of or the victim of aggravated assault, armed robbery, holdup, rape, murder, or any other heinous crime.

When a substantial question of self defense in such a case shall exist which needs legal investigation or court action for the full determination of the facts, and the defendant's actions are subsequently found justified under the intent of this section, the state of Washington shall indemnify or reimburse such defendant for all loss of time, legal fees, or other expenses involved in his defense. [1977 1st ex.s. c 206 § 8.]

Severability—1977 1st ex.s. c 206: See RCW 10.94.900.

Chapter 9.45
FRAUDS AND SWINDLES

Sections

9.45.240 Fraud in obtaining telephone or telegraph service—Penalty.

9.45.240 Fraud in obtaining telephone or telegraph service—Penalty. (1) Every person who, with intent to evade the provisions of any order of the Washington utilities and transportation commission or of any tariff, rule, or regulation lawfully filed with said commission by any telephone or telegraph company, or with intent to defraud, obtains telephone or telegraph service from any telephone or telegraph company through the use of a false or fictitious name or telephone number or the unauthorized use of the name or telephone number of another, or through any other trick, deceit, or fraudulent device, shall be guilty of a misdemeanor: *Provided, however,* That if the value of the telephone or telegraph service which any person obtains in violation of this section during a period of ninety days exceeds seventy-five dollars in the aggregate, then such person shall be guilty of a gross misdemeanor: *Provided further,* That as to any act which constitutes a violation of both this subsection and subsection (2) of this section the provisions of subsection (2) of this section shall be exclusive.

(2) Every person who:

(a) Makes, possesses, sells, gives, or otherwise transfers to another an instrument, apparatus, or device with intent to use it or with knowledge or reason to believe it is intended to be used to avoid any lawful telephone or telegraph toll charge or to conceal the existence or place of origin or destination of any telephone or telegraph message; or

(b) Sells, gives, or otherwise transfers to another plans or instructions for making or assembling an instrument, apparatus, or device described in subparagraph (a) of this subsection with knowledge or reason to believe that they may be used to make or assemble such instrument, apparatus, or device shall be guilty of a felony. [1977 1st ex.s. c 42 § 1; 1974 ex.s. c 160 § 2; 1972 ex.s. c 75 § 1; 1955 c 114 § 1.]

Publishing number or code of telephone company credit card: RCW 9.26A.090.

Chapter 9.46
GAMBLING—1973 ACT

Sections

9.46.020 Definitions (as amended by 1977 1st ex.s. c 76).
9.46.020 Definitions (as amended by 1977 1st ex.s. c 326).
9.46.030 Certain gambling activities authorized (as amended by 1977 1st ex.s. c 165).
9.46.030 Certain gambling activities authorized (as amended by 1977 1st ex.s. c 326).
9.46.070 Gambling commission—Powers and duties (as amended by 1977 1st ex.s. c 76).
9.46.070 Gambling commission—Powers and duties (as amended by 1977 1st ex.s. c 326).
9.46.080 Gambling commission—Administrator—Staff—Rules and regulations—Service contracts.
9.46.090 Gambling commission—Reports.
9.46.100 Gambling revolving fund—Created—Receipts—Disbursements—Use.
9.46.110 Taxation of gambling activities—Limitations—Restrictions as to punch boards, pull-tabs, bingo, raffles, and amusement games.
9.46.115 Special tax on coin-operated gaming devices—Amount—Payment—Rules for collection and administration—Disposition of proceeds—Violation, penalty.
9.46.140 Gambling commission—Investigations—Inspections—Hearing and subpoena power—Hearing officers.
9.46.180 Causing person to violate chapter as violation—Penalty.
9.46.185 Causing person to violate rule or regulation as violation—Penalty.
9.46.190 Violations relating to fraud or deceit—Penalty.
9.46.192 Cities and towns—Ordinance enacting certain sections of chapter—Limitations—Penalties.
9.46.193 Cities and towns—Ordinance adopting certain sections of chapter—Jurisdiction of courts.
9.46.196 Defrauding or cheating other participant or operator as violation—Causing another to do so as violation—Penalty.
9.46.198 Working in gambling activity without license as violation—Penalty.
9.46.210 Enforcement—Commission as a law enforcement agency.
9.46.230 Seizure and disposition of gambling devices—Owning, buying, selling, etc., gambling devices or records—Penalties.
9.46.235 Slot machines, antique—Defenses concerning—Presumption created.
9.46.300 Licenses and reports—Public inspection—Exceptions and requirements—Charges.

9.46.020 Definitions (as amended by 1977 1st ex.s. c 76). (1) "Amusement game" means a game played for entertainment in which:

- (a) The contestant actively participates;
- (b) The outcome depends in a material degree upon the skill of the contestant;
- (c) Only merchandise prizes are awarded;
- (d) The outcome is not in the control of the operator;

(e) The wagers are placed, the winners are determined, and a distribution of prizes or property is made in the presence of all persons placing wagers at such game; and

(f) Said game is conducted or operated by any agricultural fair, person, association, or organization in such manner and at such locations as may be authorized by rules and regulations adopted by the commission pursuant to this chapter as now or hereafter amended.

Cake walks as commonly known and fish ponds as commonly known shall be treated as amusement games for all purposes under this chapter.

The legislature hereby authorizes the wagering on the outcome of the roll of dice or the flipping of or matching of coins on the premises of an establishment engaged in the business of selling food or beverages for consumption on the premises to determine which of the participants will pay for certain items of food or beverages served or sold by such establishment and therein consumed. Such establishments are hereby authorized to possess dice and dice cups on their premises, but only for use in such limited wagering. Persons engaged in such limited form of wagering shall not be subject to the criminal or civil penalties otherwise provided for in this chapter: *Provided*, That minors shall be barred from engaging in the wagering activities allowed by *this 1977 amendatory act.

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

(3) "Bona fide charitable or nonprofit organization" means: (a) any organization duly existing under the provisions of chapters 24.12, 24.20, or 24.28 RCW, any agricultural fair authorized under the provisions of chapters 15.76 or 36.37 RCW, or any nonprofit corporation duly existing under the provisions of chapter 24.03 RCW for charitable, benevolent, eleemosynary, educational, civic, patriotic, political, social, fraternal, athletic or agricultural purposes only, or any nonprofit organization, whether incorporated or otherwise, when found by the commission to be organized and operating for one or more of the aforesaid purposes only, all of which in the opinion of the commission have been organized and are operated primarily for purposes other than the operation of gambling activities authorized under this chapter; or (b) any corporation which has been incorporated under Title 36 U.S.C. and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same. The fact that contributions to an organization do not qualify for charitable contribution deduction purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1954, as amended, shall constitute prima facie evidence that the organization is not a bona fide charitable or nonprofit organization for the purposes of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) The payment of an admission fee to gain admission to any agricultural fair authorized under chapters 15.76 or 36.37 RCW where (i) the scheme is conducted for promotional or advertising purposes, not including the promotion or advertisement of the scheme itself; and (ii) the person or organization conducting the scheme receives no portion of the admission fee either directly or indirectly and receives no other money for conducting the scheme either directly or indirectly, other than what might be received indirectly as a result of the success of the promotional or advertising aspect of the scheme.

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

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

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

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

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

(c) He engages in bookmaking; or

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

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

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

(17) "Raffle" means a game in which tickets bearing an individual number are sold for not more than one dollar each and in which a prize or prizes are awarded on the basis of a drawing from said tickets by the person or persons conducting the game, when said game is conducted by a bona fide charitable or nonprofit organization, no person other than a bona fide member of said organization takes any part in the management or operation of said game, and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting said game.

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

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

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

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

(d) No organization or corporation, or person collects or obtains any money or thing of value from, or charges or imposes any fee upon, any person which either enables him to play or results in or from his playing in excess of one dollar per half hour of playing time by that person collected in advance: *Provided*, That a fee may also be charged for entry into a tournament for prizes, which fee shall not exceed twenty-five dollars, including all separate fees which might be paid by a player for various phases or events of the tournament: *Provided further*, That this item (d) shall not apply to the membership fee in any bona fide charitable or nonprofit organization; and

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

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

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

(20) "Whoever" and "person" include natural persons, corporations and partnerships and associations of persons; and when any corporate officer, director or stockholder or any partner authorizes, participates in, or knowingly accepts benefits from any violation of this chapter committed by his corporation or partnership, he shall be punishable for

such violation as if it had been directly committed by him. [1977 1st ex.s. c 76 § 1; 1975-'76 2nd ex.s. c 87 § 2; 1975 1st ex.s. c 259 § 2; 1974 ex.s. c 155 § 2; 1974 ex.s. c 135 § 2; 1973 1st ex.s. c 218 § 2.]

*Reviser's note: "this 1977 amendatory act" consisted of the amendment of RCW 9.46.020 and 9.46.070 by 1977 1st ex.s. c 76.

9.46.020 Definitions (as amended by 1977 1st ex.s. c 326). (1)

"Amusement game" means a game played for entertainment in which:

- (a) The contestant actively participates;
- (b) The outcome depends in a material degree upon the skill of the contestant;
- (c) Only merchandise prizes are awarded;
- (d) The outcome is not in the control of the operator;
- (e) The wagers are placed, the winners are determined, and a distribution of prizes or property is made in the presence of all persons placing wagers at such game; and
- (f) Said game is conducted or operated by any agricultural fair, person, association, or organization in such manner and at such locations as may be authorized by rules and regulations adopted by the commission pursuant to this chapter as now or hereafter amended.

Cake walks as commonly known and fish ponds as commonly known shall be treated as amusement games for all purposes under this chapter.

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

(3) "Bona fide charitable or nonprofit organization" means: (a) any organization duly existing under the provisions of chapters 24.12, 24.20, or 24.28 RCW, any agricultural fair authorized under the provisions of chapters 15.76 or 36.37 RCW, or any nonprofit corporation duly existing under the provisions of chapter 24.03 RCW for charitable, benevolent, eleemosynary, educational, civic, patriotic, political, social, fraternal, athletic or agricultural purposes only, or any nonprofit organization, whether incorporated or otherwise, when found by the commission to be organized and operating for one or more of the aforesaid purposes only, all of which in the opinion of the commission have been organized and are operated primarily for purposes other than the operation of gambling activities authorized under this chapter; or (b) any corporation which has been incorporated under Title 36 U.S.C. and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same. The fact that contributions to an organization do not qualify for charitable contribution deduction purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1954, as amended, shall constitute prima facie evidence that the organization is not a bona fide charitable or nonprofit organization for the purposes of this section.

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

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

(5) "Commercial stimulant". An activity is operated as a commercial stimulant, for the purposes of this chapter, only when it is an incidental activity operated in connection with, and incidental to, an established business, with the primary purpose of increasing the volume of sales of food or drink for consumption on that business premises. The commission may by rule establish guidelines and criteria for applying this definition to its applicants and licensees for gambling activities authorized by this chapter as commercial stimulants.

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

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

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

(9) "Gambling". A person engages in gambling if he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome. Gambling does not include fishing derbies as defined by this chapter, parimutuel betting as authorized by chapter 67.16 RCW, bona fide business transactions valid under the law of contracts, including, but not limited to, contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including, but not limited to, contracts of indemnity or guarantee and life, health or accident insurance. In addition, a contest of chance which is specifically excluded from the definition of lottery under subsection (14) of this section shall not constitute gambling.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) The payment of an admission fee to gain admission to any agricultural fair authorized under chapters 15.76 or 36.37 RCW where (i) the scheme is conducted for promotional or advertising purposes, not including the promotion or advertisement of the scheme itself; and (ii) the person or organization conducting the scheme receives no portion of the admission fee either directly or indirectly and receives no other money for conducting the scheme either directly or indirectly, other than what might be received indirectly as a result of the success of the promotional or advertising aspect of the scheme.

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

(15) "Member" As used in this chapter, member means a member of an organization eligible to be licensed by the commission under this chapter, or a member of an organization which is an auxiliary of such an eligible organization, or a member of an organization of which the eligible organization is an auxiliary, or a member of an organization which is affiliated with the eligible organization by being with it auxiliary to another organization.

No person shall be a member of any organization if that person's primary purpose for membership is to become, or continue to be, a participant in, or an operator or manager of, any gambling activity or activities.

(16) "Player" means a natural person who engages, on equal terms with the other participants, and solely as a contestant or bettor, in any form of gambling in which no person may receive or become entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of a particular gambling activity. A natural person who gambles at a social game of chance on equal terms

with the other participants therein does not otherwise render material assistance to the establishment, conduct or operation thereof by performing, without fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as inviting persons to play, permitting the use of premises therefor, and supplying cards or other equipment used therein. A person who engages in "bookmaking" as defined in this section is not a "player"

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

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

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

(c) He engages in bookmaking; or

(d) He conducts a lottery as defined in subsection (14) of this section.

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

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

(19) "Raffle" means a game in which tickets bearing an individual number are sold for not more than one dollar each and in which a prize or prizes are awarded on the basis of a drawing from said tickets by the person or persons conducting the game, when said game is conducted by a bona fide charitable or nonprofit organization, no person other than a bona fide member of said organization takes any part in the management or operation of said game, and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting said game.

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

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

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

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

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

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

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

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

(22) "Whoever" and "person" include natural persons, corporations and partnerships and associations of persons; and when any corporate officer, director or stockholder or any partner authorizes, participates in, or knowingly accepts benefits from any violation of this chapter committed by his corporation or partnership, he shall be punishable for such violation as if it had been directly committed by him.

(23) "Fund raising event" means a fund raising event conducted during any three consecutive days and not more than once in any calendar year or a fund raising event conducted not more than twice each calendar year for not more than one calendar day by a bona fide charitable or nonprofit organization as defined in subsection (3) of this section other than any agricultural fair referred to thereunder, upon authorization therefor by the commission, which the legislature hereby authorizes to issue a license therefor, with or without fee, permitting the following activities, or any of them, during such event: Bingo, amusement games, contests of chance, lotteries and raffles: *Provided*, That (a) gross wagers and bets received by the organization less the amount of money paid by the organization as winnings and for the purchase cost of prizes given as winnings do not exceed five thousand dollars during the total calendar days of such fund raising event in the calendar year; (b) such activities shall not include any mechanical gambling or lottery device activated by the insertion of a coin or by the insertion of any object purchased by any person taking a chance by gambling in respect to the device; (c) only bona fide members of the organization who are not paid for such service shall participate in the management or operation of the activities, and all income therefrom, after deducting the cost of prizes and other expenses, shall be devoted solely to the lawful purposes of the organization; and (d) such organization shall notify the appropriate local law enforcement agency of the time and place where such activities shall be conducted. The commission shall require an annual information report setting forth in detail the expenses incurred and the revenue received relative to the activities permitted. [1977 1st ex.s. c 326 § 1; 1975-'76 2nd ex.s. c 87 § 2; 1975 1st ex.s. c 259 § 2; 1974 ex.s. c 155 § 2; 1974 ex.s. c 135 § 2; 1973 1st ex.s. c 218 § 2.]

Reviser's note: RCW 9.46.020 was amended twice during the 1977 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

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

9.46.030 Certain gambling activities authorized (as amended by 1977 1st ex.s. c 165). (1) The legislature hereby authorizes bona fide charitable or nonprofit organizations to conduct bingo games, raffles, amusement games, to utilize punch boards and pull-tabs and to allow their premises and facilities to be used by members and guests only to play social card games authorized by the commission, when licensed, conducted or operated pursuant to the provisions of this chapter and rules and regulations adopted pursuant thereto.

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

(3) Bona fide charitable or bona fide nonprofit organizations organized primarily for purposes other than the conduct of such activities are hereby authorized to conduct bingo, raffles, and amusement games, without obtaining a license to do so from the commission but only when:

(a) Such activities are held in accordance with all other requirements of chapter 9.46 RCW as now or hereafter amended, other applicable laws, and rules of the commission; and

(b) Said activities are conducted no more than twice each calendar year over a period of no more than twelve consecutive days each time, notwithstanding the limitations of RCW 9.46.020(2) as now or hereafter amended; and

(c) Only bona fide members of that organization, who are not paid for such services, participate in the management or operation of the activities; and

(d) Gross revenues to the organization from all the activities together does not exceed five thousand dollars during any calendar year; and

(e) All revenue therefrom, after deducting the cost of prizes and other expenses of the activity, is devoted solely to the purposes for which the organization qualifies as a bona fide charitable or nonprofit organization; and

(f) The organization gives notice at least five days in advance of the conduct of any of the activities to the local police agency of the jurisdiction within which the activities are to be conducted of the organization's intent to conduct the activities, the location of the activities, and the date or dates they will be conducted; and

(g) The organization conducting the activities maintains records for a period of one year from the date of the event which accurately show at a minimum the gross revenue from each activity, details of the expenses of conducting the activities, and details of the uses to which the gross revenue therefrom is put.

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

(5) The legislature hereby authorizes any person to conduct or operate amusement games when licensed and operated pursuant to the provisions of this chapter and rules and regulations adopted by the commission at such locations as the commission may authorize.

(6) The legislature hereby authorizes bona fide charitable or nonprofit organizations to conduct, without the necessity of obtaining a permit or license to do so from the commission, golfing sweepstakes permitting wagers of money, and the same shall not constitute such gambling or lottery as otherwise in this chapter prohibited, or be subject to civil or criminal penalties thereunder, but this only when the outcome of such golfing sweepstakes is dependent upon the score, or scores, or the playing ability, or abilities, of a golfing contest between individual players or teams of such players, conducted in the following manner:

(a) Wagers are placed by buying tickets on any players in a golfing contest to "win", "place" or "show" and those holding tickets on the three winners may receive a payoff similar to the system of betting identified as *parimutuel*, such moneys placed as wagers to be used primarily as winners proceeds, except moneys used to defray the expenses of such golfing sweepstakes or otherwise used to carry out the purposes of such organization; or

(b) Participants in any golfing contest(s) pay a like sum of money into a common fund on the basis of attaining a stated number of points ascertainable from the score of such participants, and those participants attaining such stated number of points share equally in the moneys in the common fund, without any percentage of such moneys going to the sponsoring organization; and

(c) Participation is limited to members of the sponsoring organization and their bona fide guests.

(7) The legislature hereby authorizes bowling establishments to conduct, without the necessity of obtaining a permit or license to do so, as a commercial stimulant, a bowling activity which permits bowlers to purchase tickets from the establishment for a predetermined and posted amount of money which tickets are then selected by the luck of the draw and the holder of the matching ticket so drawn has an opportunity to bowl a strike and if successful receives a predetermined and posted monetary prize: *Provided*, That all sums collected by the establishment from the sale of tickets shall be returned to purchasers of tickets and no part of the proceeds shall inure to any person other than the participants winning in the game or a recognized charity. The

tickets shall be sold, and accounted for, separately from all other sales of the establishment. The price of any single ticket shall not exceed one dollar. Accounting records shall be available for inspection during business hours by any person purchasing a chance thereon, by the commission or its representatives, or by any law enforcement agency.

(8) The legislature hereby authorizes any person, association, or organization to conduct sports pools without a license to do so from the commission but only when the outcome of which is dependent upon the score, or scores, of a certain athletic contest and which is conducted only in the following manner:

(a) A board or piece of paper is divided into one hundred equal squares, each of which constitutes a chance to win in the sports pool and each of which is offered directly to prospective contestants at one dollar or less; and

(b) The purchaser of each chance or square signs his or her name on the face of each square or chance he or she purchases; and

(c) At some time not later than prior to the start of the subject athletic contest the pool is closed and no further chances in the pool are sold; and

(d) After the pool is closed a prospective score is assigned by random drawing to each square; and

(e) All money paid by entrants to enter the pool less taxes is paid out as the prize or prizes to those persons holding squares assigned the winning score or scores from the subject athletic contest; and

(f) The sports pool board is available for inspection by any person purchasing a chance thereon, the commission, or by any law enforcement agency upon demand at all times prior to the payment of the prize; and

(g) The person or organization conducting the pool is conducting no other sports pool on the same athletic event; and

(h) The sports pool conforms to any rules and regulations of the commission applicable thereto.

The penalties provided for professional gambling in this chapter shall not apply to sports pools as described in this subsection, golfing sweepstakes and bowling activities as described in subsections (6) and (7) of this section, social card games, bingo games, raffles, punch boards, pull-tabs, or amusement games when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations of the commission. [1977 1st ex.s. c 165 § 2; 1975-'76 2nd ex.s. c 87 § 3; 1975 1st ex.s. c 259 § 3; 1974 ex.s. c 155 § 3; 1974 ex.s. c 135 § 3; 1973 1st ex.s. c 218 § 3.]

9.46.030 Certain gambling activities authorized (as amended by 1977 1st ex.s. c 326). (1) The legislature hereby authorizes bona fide charitable or nonprofit organizations to conduct bingo games, raffles, amusement games, and fund raising events, and to utilize punch boards and pull-tabs and to allow their premises and facilities to be used by only members and guests to play social card games authorized by the commission, when licensed, conducted or operated pursuant to the provisions of this chapter and rules and regulations adopted pursuant thereto.

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

(3) Bona fide charitable or bona fide nonprofit organizations organized primarily for purposes other than the conduct of such activities are hereby authorized to conduct bingo, raffles, and amusement games, without obtaining a license to do so from the commission but only when:

(a) Such activities are held in accordance with all other requirements of chapter 9.46 RCW as now or hereafter amended, other applicable laws, and rules of the commission; and

(b) Said activities are, alone or in any combination, conducted no more than twice each calendar year and over a period of no more than twelve consecutive days each time, notwithstanding the limitations of

RCW 9.46.020(2) as now or hereafter amended: *Provided*, That a raffle conducted under this subsection may be conducted for a period longer than twelve days; and

(c) Only bona fide members of that organization, who are not paid for such services, participate in the management or operation of the activities; and

(d) Gross revenues to the organization from all the activities together does not exceed five thousand dollars during any calendar year; and

(e) All revenue therefrom, after deducting the cost of prizes and other expenses of the activity, is devoted solely to the purposes for which the organization qualifies as a bona fide charitable or nonprofit organization; and

(f) The organization gives notice at least five days in advance of the conduct of any of the activities to the local police agency of the jurisdiction within which the activities are to be conducted of the organization's intent to conduct the activities, the location of the activities, and the date or dates they will be conducted; and

(g) The organization conducting the activities maintains records for a period of one year from the date of the event which accurately show at a minimum the gross revenue from each activity, details of the expenses of conducting the activities, and details of the uses to which the gross revenue therefrom is put.

(4) The legislature hereby authorizes any person, association, or organization operating an established business primarily engaged in the selling of food or drink for consumption on the premises to conduct social card games and to utilize punch boards and pull-tabs as a commercial stimulant to such business when licensed and utilized or operated pursuant to the provisions of this chapter and rules and regulations adopted pursuant thereto.

(5) The legislature hereby authorizes any person to conduct or operate amusement games when licensed and operated pursuant to the provisions of this chapter and rules and regulations adopted by the commission at such locations as the commission may authorize.

(6) The legislature hereby authorizes any person, association, or organization to conduct sports pools without a license to do so from the commission but only when the outcome of which is dependent upon the score, or scores, of a certain athletic contest and which is conducted only in the following manner:

(a) A board or piece of paper is divided into one hundred equal squares, each of which constitutes a chance to win in the sports pool and each of which is offered directly to prospective contestants at one dollar or less; and

(b) The purchaser of each chance or square signs his or her name on the face of each square or chance he or she purchases; and

(c) At some time not later than prior to the start of the subject athletic contest the pool is closed and no further chances in the pool are sold; and

(d) After the pool is closed a prospective score is assigned by random drawing to each square; and

(e) All money paid by entrants to enter the pool less taxes is paid out as the prize or prizes to those persons holding squares assigned the winning score or scores from the subject athletic contest; and

(f) The sports pool board is available for inspection by any person purchasing a chance thereon, the commission, or by any law enforcement agency upon demand at all times prior to the payment of the prize; and

(g) The person or organization conducting the pool is conducting no other sports pool on the same athletic event; and

(h) The sports pool conforms to any rules and regulations of the commission applicable thereto.

(7) (a) The legislature hereby authorizes any bona fide charitable or nonprofit organization which is licensed pursuant to RCW 66.24.400, and its officers and employees, to allow the use of the premises, furnishings, and other facilities not gambling devices of such organization by members of the organization who engage as players in the following types of gambling activities only:

(i) Social card games as defined in *RCW 9.46.020(20)(a), (b), (c), and (d); and

(ii) Social dice games, which shall be limited to contests of chance, the outcome of which are determined by one or more rolls of dice.

(b) Bona fide charitable or nonprofit organizations shall not be required to be licensed by the commission in order to allow use of their premises in accordance with this subsection; however, the following conditions must be met:

(i) No organization, corporation, or person shall collect or obtain or charge any percentage of or shall collect or obtain any portion of the

money or thing of value wagered or won by any of the players: *Provided*, That a player may collect his or her winnings; and

(ii) No organization, corporation, or person shall collect or obtain any money or thing of value from, or charge or impose any fee upon, any person which either enables him or her to play or results in or from his or her playing: *Provided*, That this subparagraph (ii) shall not preclude collection of a membership fee which is unrelated to participation in gambling activities authorized under this subsection.

The penalties provided for professional gambling in this chapter shall not apply to sports pools as described in subsection (6) of this section, the wagering described in subsection (7) of this section, social card games, bingo games, raffles, fund raising events, punch boards, pull-tabs, amusement games, or to the use of facilities of a bona fide charitable or nonprofit organization for social card games or dice games, when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations of the commission. [1977 1st ex.s. c 326 § 2; 1975-'76 2nd ex.s. c 87 § 3; 1975 1st ex.s. c 259 § 3; 1974 ex.s. c 155 § 3; 1974 ex.s. c 135 § 3; 1973 1st ex.s. c 218 § 3.]

Reviser's note: *(1) The reference to RCW 9.46.020(20)(a), (b), (c), and (d) is to that section as amended by 1977 1st ex.s. c 326 § 1.

(2) RCW 9.46.030 was amended twice during the 1977 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

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

9.46.070 Gambling commission—Powers and duties (as amended by 1977 1st ex.s. c 76). The commission shall have the following powers and duties:

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

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

(3) To authorize and issue licenses for a period not to exceed one year to any person, association, or organization approved by the commission meeting the requirements of this chapter and meeting the requirements of any rules and regulations adopted by the commission pursuant to this chapter as now or hereafter amended, permitting said person, association, or organization to conduct or operate amusement games in such manner and at such locations as the commission may determine;

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

(5) To establish a schedule of annual license fees for carrying on specific gambling activities upon the premises, and for such other activities as may be licensed by the commission, which shall provide to the commission not less than an amount of money adequate to cover all costs incurred by the commission relative to licensing under this chapter and the enforcement by the commission of the provisions of this chapter and rules and regulations adopted pursuant thereto: *Provided*, That all licensing fees shall be submitted with an application therefor, and such portion of said fee as the commission may determine, based upon its cost of processing and investigation, shall be retained by the commission upon the withdrawal or denial of any such license application as its reasonable expense for processing the application and investigation into the granting thereof: *Provided further*, That if in a particular case the basic license fee established by the commission for a particular class of license is less than the commission's actual expenses to investigate that particular application, the commission may at any time charge to that applicant such additional fees as are necessary to pay the commission for those costs. The commission may decline to proceed with its investigation and no license shall be issued until the commission has been fully paid therefor by the applicant: *And provided further*, That the commission may establish fees for the furnishing by it to licensees of identification stamps to be affixed to such devices and equipment as required by the commission and for such other special services or programs required or offered by the commission, the amount of each of these fees to be not less than is adequate to offset the cost to the commission of the stamps and of administering their dispersal to licensees or the cost of administering such other special services, requirements, or programs;

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

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

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

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

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

(11) To regulate the collection of and the accounting for the fee which may be imposed by an organization, corporation, or person licensed to conduct a social card game on a person desiring to become a player in a social card game in accordance with *RCW 9.46.020(18)(d) as now or hereafter amended;

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

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

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

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

(16) To perform all other matters and things necessary to carry out the purposes and provisions of this chapter. [1977 1st ex.s. c 76 § 2; 1975-'76 2nd ex.s. c 87 § 4; 1975 1st ex.s. c 259 § 4; 1974 ex.s. c 155 § 4; 1974 ex.s. c 135 § 4; 1973 2nd ex.s. c 41 § 4; 1973 1st ex.s. c 218 § 7.]

*Reviser's note: The reference to RCW 9.46.020(18)(d) is to that section as amended by 1977 1st ex.s. c 76 § 2.

9.46.070 Gambling commission—Powers and duties (as amended by 1977 1st ex.s. c 326). The commission shall have the following powers and duties:

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

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

(3) To authorize and issue licenses for a period not to exceed one year to any person, association, or organization approved by the commission meeting the requirements of this chapter and meeting the requirements of any rules and regulations adopted by the commission pursuant to this chapter as now or hereafter amended, permitting said person, association, or organization to conduct or operate amusement games in such manner and at such locations as the commission may determine;

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

(5) To establish a schedule of annual license fees for carrying on specific gambling activities upon the premises, and for such other activities as may be licensed by the commission, which shall provide to the commission not less than an amount of money adequate to cover all costs incurred by the commission relative to licensing under this chapter and the enforcement by the commission of the provisions of this chapter and rules and regulations adopted pursuant thereto: *Provided*, That all licensing fees shall be submitted with an application therefor and such portion of said fee as the commission may determine, based upon its cost of processing and investigation, shall be retained by the commission upon the withdrawal or denial of any such

license application as its reasonable expense for processing the application and investigation into the granting thereof: *Provided further*, That if in a particular case the basic license fee established by the commission for a particular class of license is less than the commission's actual expenses to investigate that particular application, the commission may at any time charge to that applicant such additional fees as are necessary to pay the commission for those costs. The commission may decline to proceed with its investigation and no license shall be issued until the commission has been fully paid therefor by the applicant: *And provided further*, That the commission may establish fees for the furnishing by it to licensees of identification stamps to be affixed to such devices and equipment as required by the commission and for such other special services or programs required or offered by the commission, the amount of each of these fees to be not less than is adequate to offset the cost to the commission of the stamps and of administering their dispersal to licensees or the cost of administering such other special services, requirements or programs;

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

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

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

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

(10) To regulate and establish the type and scope of and manner of conducting the gambling activities authorized by RCW 9.46.030, including but not limited to, the extent of wager, money, or other thing of value which may be wagered or contributed or won by a player in any such activities;

(11) To regulate and establish a reasonable admission fee which may be imposed by an organization, corporation or person licensed to conduct a social card game on a person desiring to become a player in a social card game. A "reasonable admission fee" under this item shall be limited to a fee which would defray or help to defray the expenses of the game and which would not be contrary to the purposes of this chapter;

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

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

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

(15) To establish and regulate a maximum limit on salaries or wages which may be paid to persons employed in connection with activities conducted by bona fide charitable or nonprofit organizations and authorized by this chapter, where payment of such persons is allowed, and to regulate and establish maximum limits for other expenses in

connection with such authorized activities, including but not limited to rent or lease payments.

In establishing these maximum limits the commission shall take into account the amount of income received, or expected to be received, from the class of activities to which the limits will apply and the amount of money the games could generate for authorized charitable or nonprofit purposes absent such expenses. The commission may also take into account, in its discretion, other factors, including but not limited to, the local prevailing wage scale and whether charitable purposes are benefited by the activities;

(16) To authorize, require, and issue for a period not to exceed one year such licenses or permits, for which the commission may by rule provide, to any person to work for any operator of any gambling activity authorized by this chapter in connection with that activity, or any manufacturer, supplier, or distributor of devices for those activities in connection with such business. The commission shall not require that persons working solely as volunteers in an authorized activity conducted by a bona fide charitable or bona fide nonprofit organization, who receive no compensation of any kind for any purpose from that organization, and who have no managerial or supervisory responsibility in connection with that activity, be licensed to do such work. The commission may require that licensees employing such unlicensed volunteers submit to the commission periodically a list of the names, addresses, and dates of birth of the volunteers. If any volunteer is not approved by the commission, the commission may require that the licensee not allow that person to work in connection with the licensed activity;

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

(18) To establish guidelines for determining what constitutes active membership in bona fide nonprofit or charitable organizations for the purposes of this chapter; and

(19) To perform all other matters and things necessary to carry out the purposes and provisions of this chapter. [1977 1st ex.s. c 326 § 3; 1975-'76 2nd ex.s. c 87 § 4; 1975 1st ex.s. c 259 § 4; 1974 ex.s. c 155 § 4; 1974 ex.s. c 135 § 4; 1973 2nd ex.s. c 41 § 4; 1973 1st ex.s. c 218 § 7.]

Reviser's note: RCW 9.46.070 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

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

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

9.46.080 Gambling commission—Administrator—Staff—Rules and regulations—Service contracts. The commission shall employ a full time director, who shall be the administrator for the commission in carrying out its powers and duties and who shall issue rules and regulations adopted by the commission governing the activities authorized hereunder and shall supervise commission employees in carrying out the purposes and provisions of this chapter. In addition, the director shall employ two assistant directors, together with such investigators and enforcement officers and such staff as the commission determines is necessary to carry out the purposes and provisions of this chapter. The director, both assistant directors, and personnel occupying positions requiring the performing of undercover investigative work shall be exempt from the provisions of chapter 41.06 RCW, as now law or hereafter amended. Neither the director nor any commission employee working therefor shall be an officer or manager of any bona fide charitable or bona fide nonprofit organization, or of any organization which conducts gambling activity in this state.

The director, subject to the approval of the commission, is authorized to enter into agreements on behalf of the commission for mutual assistance and services, based upon actual costs, with any state or federal agency or with any city, town, or county, and such state or local agency is authorized to enter into such an agreement with the commission. If a needed service is not available from another agency of state government within a reasonable time, the director may obtain that service from private industry. [1977 1st ex.s. c 326 § 4; 1974 ex.s. c 155 § 7; 1974 ex.s. c 135 § 7; 1973 1st ex.s. c 218 § 8.]

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

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

The commission shall conduct a thorough study of the effectiveness of the *criminal sections of the act, and penalties imposed thereby, and shall make a separate report to the legislature on or before January 1, 1977, outlining its findings and any recommendation for specific amendments to these sections it may have. [1977 c 75 § 4; 1975 1st ex.s. c 166 § 4; 1973 1st ex.s. c 218 § 9.]

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

Severability—1975 1st ex.s. c 166: "If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 166 § 15.] This applies to RCW 9.46.075, 9.46.113, and 9.46.293, and amendments to RCW 9.46.090, 9.46.130, 9.46.140, 9.46.160, and 9.46.210.

9.46.100 Gambling revolving fund—Created—Receipts—Disbursements—Use. There is hereby created a fund to be known as the "gambling revolving fund" which shall consist of all moneys receivable for licensing, penalties, forfeitures, and all other moneys, income, or revenue received by the commission. The state treasurer shall be custodian of the fund. All moneys received by the commission or any employee thereof, except for change funds and an amount of petty cash as fixed by rule or regulation of the commission, shall be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the gambling revolving fund. Disbursements from the revolving fund shall be on authorization of the commission or a duly authorized representative thereof. In order to maintain an effective expenditure and revenue control the gambling revolving fund shall be subject in all respects to chapter 43.88 RCW but no appropriation shall be required to permit expenditures and payment of obligations from such fund. All expenses relative to commission business, including but not limited to salaries and expenses of the director and other commission employees shall be paid from the gambling revolving fund. [1977 1st ex.s. c 326 § 5; 1973 1st ex.s. c 218 § 10.]

9.46.110 Taxation of gambling activities—Limitations—Restrictions as to punch boards, pull-tabs, bingo, raffles, and amusement games. The legislative authority of any county, city-county, city, or town, by local law and ordinance, and in accordance with the provisions of this chapter and rules and regulations promulgated hereunder, may provide for the taxing of any gambling activity authorized in RCW 9.46.030 as now or hereafter amended within its jurisdiction, the tax receipts to go to the county, city-county, city, or town so taxing the same: *Provided*, That any such tax imposed by a county alone shall not apply to any gambling activity within a city or town located therein but the tax rate established by a county, if any, shall constitute the tax rate throughout such county including both incorporated and unincorporated areas, except for any city located therein with a population of twenty thousand or more persons as of the most recent decennial census taken by the federal government: *Provided further*, That (1) punch boards and pull-tabs, chances on which shall only be sold to adults, which shall have a twenty-five cent limit on a single chance thereon, shall be taxed on a basis which shall reflect only the gross receipts from such punch boards and pull-tabs; and (2) no punch board or pull-tab may award as a prize upon a winning number or symbol being drawn the opportunity of taking a chance upon any other punch board or pull-tab; and (3) all prizes for punch boards and pull-tabs must be on display within the immediate area of the premises wherein any such punch board or pull-tab is located and upon a winning number or symbol being drawn, such prize must be immediately removed therefrom, or such omission shall be deemed a fraud for the purposes of this chapter; and (4) when any person shall win over five dollars in money or merchandise from any punch board or pull-tab, every licensee hereunder shall keep a public

record thereof for at least ninety days thereafter containing such information as the commission shall deem necessary: *And provided further*, That taxation of bingo and raffles shall never be in an amount greater than ten percent of the gross revenue received therefrom less the amount paid for or as prizes. Taxation of amusement games shall only be in an amount sufficient to pay the actual costs of enforcement of the provisions of this chapter by the county, city or town law enforcement agency and in no event shall such taxation exceed two percent of the gross revenue therefrom less the amount paid for as prizes: *Provided further*, That no tax shall be imposed under the authority of this chapter on bingo, raffles or amusement games when such activities or any combination thereof are conducted by any bona fide charitable or nonprofit organization as defined in RCW 9.46.020(3), which organization has no paid operating or management personnel and has gross income from bingo, raffles or amusement games, or any combination thereof, not exceeding five thousand dollars per year less the amount paid for as prizes. Taxation of punch boards and pull-tabs shall not exceed five percent of gross receipts. [1977 1st ex.s. c 198 § 1; 1974 ex.s. c 155 § 8; 1974 ex.s. c 135 § 8; 1973 1st ex.s. c 218 § 11.]

Severability—1974 ex.s. c 155: See note following RCW 9.41.010.

9.46.115 Special tax on coin-operated gaming devices—Amount—Payment—Rules for collection and administration—Disposition of proceeds—Violation, penalty. (1) In addition to any other fees and taxes imposed by this chapter, or by commission rule, there is hereby imposed a special tax to be paid by every person who maintains for use or permits the use of, on any place or premises occupied by him a coin-operated gaming device which is subject to the federal tax on coin-operated devices imposed by section 4461 of the Internal Revenue Code (79 Stat. 148; 26 U.S.C. Sec. 4461), as amended and in effect on March 11, 1976 and any subsequent amendments thereto. The amount of such tax shall be equal to eighty percent of the amount of the tax required to be paid to the federal government pursuant to section 4461 of the Internal Revenue Code (79 Stat. 148; 26 U.S.C. Sec. 4461), as amended and in effect on March 11, 1976 and any subsequent amendments thereto: *Provided*, That such tax shall not exceed the amount of the credit for state taxes allowed by section 4464 of the Internal Revenue Code (85 Stat. 534, 26 U.S.C. Sec. 4464), as amended and in effect on March 11, 1976 and any subsequent amendments thereto.

This tax shall be imposed on any coin-operated gaming device as defined in section 4462 of the Internal Revenue Code (79 Stat. 149; 26 U.S.C. Sec. 4462), as amended and in effect on March 11, 1976 and any amendments thereto.

(2) The tax established in subsection (1) of this section shall be payable to the commission on or before June 20 of each year in advance of the following fiscal year, July 1 through June 30, pursuant to rules and regulations adopted by the commission. Payment of any tax due shall be a condition precedent to the issuance or renewal of any license of any nature by the commission

to the taxpayer. The tax shall apply to each such device so maintained or permitted at any time during the year and no such device shall be placed out for public play unless and until the tax due respecting it has first been paid: *Provided*, That a replacement for such a device removed from play shall not be deemed an additional device for that year. Proceeds from the tax shall be deposited in the gambling revolving fund and used by the commission for its expenses of administering this chapter.

The commission shall adopt rules setting out the procedure for collection of the tax and for the administration of this section.

(3) The tax imposed by subsection (1) of this section shall be in addition to any tax imposed upon such coin-operated gaming devices, or the income therefrom, by any municipal corporation or political subdivision of the state.

(4) Any person violating any of the provisions of this section shall be guilty of a misdemeanor. [1977 1st ex.s. c 326 § 6; 1975-'76 2nd ex.s. c 87 § 1.]

9.46.140 Gambling commission—Investigations—Inspections—Hearing and subpoena power—Hearing officers. (1) The commission or its authorized representative may:

(a) Make necessary public or private investigations within or outside of this state to determine whether any person has violated or is about to violate this chapter or any rule or order hereunder, or to aid in the enforcement of this chapter or in the prescribing of rules and forms hereunder; and

(b) Inspect the books, documents, and records of any person lending money to or in any manner financing any license holder or applicant for a license or receiving any income or profits from the use of such license for the purpose of determining compliance or noncompliance with the provisions of this chapter or the rules and regulations adopted pursuant thereto.

(2) For the purpose of any investigation or proceeding under this chapter, the commission or any officer designated by rule may conduct hearings, administer oaths or affirmations, or upon the commission's or officer's motion or upon request of any party may subpoena witnesses, compel attendance, take depositions, take evidence, or require the production of any matter which is relevant to the investigation or proceeding, including but not limited to the existence, description, nature, custody, condition, or location of any books, documents, or other tangible things, or the identity or location of persons having knowledge or relevant facts, or any other matter reasonably calculated to lead to the discovery of material evidence.

(3) Upon failure to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the director may apply to the superior court for an order compelling compliance.

(4) The commission may appoint hearing officers to conduct hearings respecting the suspension, revocation, or denial of licenses, who may administer oaths, admit or deny admission of evidence, compel the attendance of

witnesses, issue subpoenas, issue orders, and exercise all other powers and perform all other functions set out in RCW 34.04.090 (6) and (8), 34.04.100 and 34.04.105. The salaries and expenses of such hearing officers may be paid from any revenues available to the commission.

(5) Except as otherwise provided in this chapter, all proceedings under this chapter shall be in accordance with the administrative procedure act, chapter 34.04 RCW. [1977 1st ex.s. c 326 § 7; 1975 1st ex.s. c 166 § 8; 1973 1st ex.s. c 218 § 14.]

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

9.46.180 Causing person to violate chapter as violation—Penalty. Any person who knowingly causes, aids, abets, or conspires with another to cause any person to violate any provision of this chapter shall be guilty of a felony and upon conviction shall be punished by imprisonment for not more than five years or a fine of not more than one hundred thousand dollars, or both. [1977 1st ex.s. c 326 § 8; 1973 1st ex.s. c 218 § 18.]

9.46.185 Causing person to violate rule or regulation as violation—Penalty. Any person who knowingly causes, aids, abets, or conspires with another to cause any person to violate any rule or regulation adopted pursuant to this chapter shall be guilty of a gross misdemeanor and upon conviction shall be punished by imprisonment in the county jail for not more than one year or by a fine of not more than five thousand dollars, or both. [1977 1st ex.s. c 326 § 9.]

9.46.190 Violations relating to fraud or deceit—Penalty. Any person or association or organization operating any gambling activity who or which, directly or indirectly, shall in the course of such operation:

(1) Employ any device, scheme, or artifice to defraud; or

(2) Make any untrue statement of a material fact, or omit to state a material fact necessary in order to make the statement made not misleading, in the light of the circumstances under which said statement is made; or

(3) Engage in any act, practice or course of operation as would operate as a fraud or deceit upon any person;

Shall be guilty of a gross misdemeanor and upon conviction shall be punished by imprisonment in the county jail for not more than one year or by a fine of not more than five thousand dollars, or both. [1977 1st ex.s. c 326 § 10; 1973 1st ex.s. c 218 § 19.]

9.46.192 Cities and towns—Ordinance enacting certain sections of chapter—Limitations—Penalties. Every city or town is authorized to enact as an ordinance of that city or town any or all of the sections of this chapter the violation of which constitutes a misdemeanor or gross misdemeanor. The city or town may not modify the language of any section of this chapter in enacting such section except as necessary to put the section in the proper form of an ordinance or to provide for a sentence [to] be served in the appropriate detention facility. The ordinance must provide for the same maximum penalty

for its violation as may be imposed under the section in this chapter. [1977 1st ex.s. c 326 § 11.]

9.46.193 Cities and towns—Ordinance adopting certain sections of chapter—Jurisdiction of courts. District courts operating under the provisions of chapters 3.30 through 3.74 RCW, except municipal departments of such courts operating under chapter 3.46 RCW and municipal courts operating under chapter 3.50 RCW, shall have concurrent jurisdiction with the superior court to hear, try, and determine misdemeanor and gross misdemeanor violations of this chapter and violations of any ordinance passed under authority of this chapter by any city or town.

Municipal courts operating under chapters 35.20 or 3.50 RCW and municipal departments of the district court operating under chapter 3.46 RCW, shall have concurrent jurisdiction with the superior court to hear, try, and determine violations of any ordinance passed under authority of this chapter by the city or town in which the court is located.

Notwithstanding any other provision of law, each of these courts shall have the jurisdiction and power to impose up to the maximum penalties provided for the violation of the ordinances adopted under the authority of this chapter. Review of the judgments of these courts shall be as provided in other criminal actions. [1977 1st ex.s. c 326 § 12.]

9.46.196 Defrauding or cheating other participant or operator as violation—Causing another to do so as violation—Penalty. No person participating in a gambling activity shall in the course of such participation, directly or indirectly:

(1) Employ or attempt to employ any device, scheme, or artifice to defraud any other participant or any operator;

(2) Engage in any act, practice, or course of operation as would operate as a fraud or deceit upon any other participant or any operator;

(3) Engage in any act, practice, or course of operation while participating in a gambling activity with the intent of cheating any other participant or the operator to gain an advantage in the game over the other participant or operator; or

(4) Cause, aid, abet, or conspire with another person to cause any other person to violate subsections (1) through (3) of this section.

Any person violating this section shall be guilty of a gross misdemeanor and upon conviction shall be punished by imprisonment in the county jail for not more than one year or by a fine of not more than five thousand dollars, or both. [1977 1st ex.s. c 326 § 13.]

9.46.198 Working in gambling activity without license as violation—Penalty. Any person who works as an employee or agent or in a similar capacity for another person in connection with the operation of an activity for which a license is required under this chapter or by commission rule without having obtained the applicable license required by the commission under

*RCW 9.46.070(16) shall be guilty of a gross misdemeanor and shall, upon conviction, be punished by not more than one year in the county jail or a fine of not more than five thousand dollars, or both. [1977 1st ex.s. c 326 § 14.]

*Reviser's note: The reference to RCW 9.46.070(16) is to that section as amended by 1977 1st ex.s. c 326 § 3.

9.46.210 Enforcement—Commission as a law enforcement agency. (1) It shall be the duty of all peace officers, law enforcement officers, and law enforcement agencies within this state to investigate, enforce, and prosecute all violations of this chapter.

(2) In addition to the authority granted by subsection (1) of this section law enforcement agencies of cities and counties shall investigate and report to the commission all violations of the provisions of this chapter and of the rules of the commission found by them and shall assist the commission in any of its investigations and proceedings respecting any such violations. Such law enforcement agencies shall not be deemed agents of the commission.

(3) In addition to its other powers and duties, the commission shall have the power to enforce the penal provisions of chapter 218, Laws of 1973 1st ex. sess. and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. The director, both assistant directors, and each of the commission's investigators, enforcement officers, and inspectors shall have the power, under the supervision of the commission, to enforce the penal provisions of chapter 218, Laws of 1973 1st ex. sess. and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. They shall have the power and authority to apply for and execute all warrants and serve process of law issued by the courts in enforcing the penal provisions of chapter 218, Laws of 1973 1st ex. sess. and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. They shall have the power to arrest without a warrant, any person or persons found in the act of violating any of the penal provisions of chapter 218, Laws of 1973 1st ex. sess. and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. To the extent set forth above, the commission shall be a law enforcement agency of this state with the power to investigate for violations of and to enforce the provisions of this chapter, as now law or hereafter amended, and to obtain information from and provide information to all other

law enforcement agencies. [1977 1st ex.s. c 326 § 15; 1975 1st ex.s. c 166 § 10; 1974 ex.s. c 155 § 9; 1974 ex.s. c 135 § 9; 1973 1st ex.s. c 218 § 21.]

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

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

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

9.46.230 Seizure and disposition of gambling devices—Owning, buying, selling, etc., gambling devices or records—Penalties. (1) All gambling devices as defined in *RCW 9.46.020(10) are common nuisances and shall be subject to seizure, immediately upon detection by any peace officer, and to confiscation and destruction by order of a superior or district justice court, except when in the possession of officers enforcing this chapter.

(2) No property right in any gambling device as defined in *RCW 9.46.020(10) shall exist or be recognized in any person, except the possessory right of officers enforcing this chapter.

(3) All furnishings, fixtures, equipment, and stock, including without limitation furnishings and fixtures adaptable to nongambling uses and equipment and stock for printing, recording, computing, transporting, or safekeeping, used in connection with professional gambling or maintaining a gambling premises, and all money or other things of value at stake or displayed in or in connection with professional gambling or any gambling device used therein, shall be subject to seizure, immediately upon detection, by any peace officer, and unless good cause is shown to the contrary by the owner, shall be forfeited to the state or political subdivision by which seized by order of a court having jurisdiction, for disposition by public auction or as otherwise provided by law. Bona fide liens against property so forfeited, on good cause shown by the lienor, shall be transferred from the property to the proceeds of the sale of the property. Forfeit moneys and other proceeds realized from the enforcement of this subsection shall be paid into the general fund of the state if the property was seized by officers thereof or to the political subdivision or other public agency, if any, whose officers made the seizure, except as otherwise provided by law. This subsection shall not apply to such items utilized in activities enumerated in RCW 9.46.030, as now or hereafter amended, when the items are of the type and kind traditionally and usually employed in connection with the particular activity. Nor shall this subsection apply to any act or acts in furtherance of such activities when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations adopted pursuant thereto.

(4) Whoever knowingly owns, manufactures, possesses, buys, sells, rents, leases, finances, holds a security interest in, stores, repairs, or transports any gambling device as defined in RCW 9.46.020 as now or hereafter amended or offers or solicits any interest therein, whether through an agent or employee or otherwise, shall be guilty of a felony and fined not more than one

hundred thousand dollars or imprisoned not more than five years or both: *Provided, however,* That this subsection shall not apply to devices used in those activities enumerated in RCW 9.46.030, as now or hereafter amended, when the devices are of the type and kind traditionally and usually employed in connection with the particular activity. Nor shall this subsection apply to any act or acts in furtherance of such activities when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations adopted pursuant thereto. Subsection (2) of this section shall have no application in the enforcement of this subsection. In the enforcement of this subsection direct possession of any such gambling device shall be presumed to be knowing possession thereof.

(5) Whoever knowingly prints, makes, possesses, stores, or transports any gambling record, or buys, sells, offers, or solicits any interest therein, whether through an agent or employee or otherwise, shall be guilty of a gross misdemeanor: *Provided, however,* That this subsection shall not apply to records relating to and kept for activities enumerated in RCW 9.46.030, as now or hereafter amended, when the records are of the type and kind traditionally and usually employed in connection with the particular activity. Nor shall this subsection apply to any act or acts in furtherance of such activities when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations adopted pursuant thereto. In the enforcement of this subsection direct possession of any such gambling record shall be presumed to be knowing possession thereof. [1977 1st ex.s. c 326 § 16; 1974 ex.s. c 155 § 5; 1974 ex.s. c 135 § 5; 1973 1st ex.s. c 218 § 23.]

***Reviser's note:** The references to RCW 9.46.020(10) are to that section as amended by 1977 1st ex.s. c 326 § 1.

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

9.46.235 Slot machines, antique—Defenses concerning—Presumption created. (1) For purposes of a prosecution under RCW 9.46.230(4) or a seizure, confiscation, or destruction order under RCW 9.46.230(1), it shall be a defense that the gambling device involved is an antique slot machine and that the antique slot machine was not operated for gambling purposes while in the owner's or defendant's possession. No slot machine, having been seized under this chapter, may be altered, destroyed, or disposed of without affording the owner thereof an opportunity to present a defense under this section. If the defense is applicable, the antique slot machine shall be returned to the owner or defendant, as the court may direct.

(2) RCW 9.46.230(2) shall have no application to any antique slot machine that has not been operated for gambling purposes while in the owner's possession.

(3) For the purposes of this section, a slot machine shall be conclusively presumed to be an antique slot machine if it was manufactured prior to January 1, 1941. [1977 1st ex.s. c 165 § 1.]

9.46.300 Licenses and reports—Public inspection—Exceptions and requirements—Charges. All applications for licenses made to the commission, with

the exception of any portions of the applications describing the arrest or conviction record of any person, and all reports required by the commission to be filed by its licensees on a periodic basis concerning the operation of the licensed activity or concerning any organization, association, or business in connection with which a licensed activity is operated, in the commission files, shall be open to public inspection at the commission's offices upon a prior written request of the commission. The staff of the commission may decline to allow an inspection until such time as the inspection will not unduly interfere with the other duties of the staff. The commission may charge the person making a request for an inspection an amount necessary to offset the costs to the commission of providing the inspection and copies of any requested documents. [1977 1st ex.s. c 326 § 17.]

Chapter 9.61

MALICIOUS MISCHIEF—INJURY TO PROPERTY

Sections

- 9.61.160 Threats to bomb or injure property.
9.61.180 Threats to bomb or injure property—Penalty.

9.61.160 Threats to bomb or injure property. It shall be unlawful for any person to threaten to bomb or otherwise injure any public or private school building, any place of worship or public assembly, any governmental property, or any other building, common carrier, or structure, or any place used for human occupancy; or to communicate or repeat any information concerning such a threatened bombing or injury, knowing such information to be false and with intent to alarm the person or persons to whom the information is communicated or repeated. [1977 1st ex.s. c 231 § 1; 1959 c 141 § 1.]

9.61.180 Threats to bomb or injure property—Penalty. Any violation of RCW 9.61.160 through 9.61.180 shall be a felony. [1977 1st ex.s. c 231 § 2; 1959 c 141 § 3.]

Chapter 9.73

PRIVACY, VIOLATING RIGHT OF

Sections

- 9.73.030 Intercepting or recording private communication—Consent required—Exceptions.
9.73.060 Violating right of privacy—Civil action for—Liability for damages.
9.73.090 Police and fire personnel exempted from RCW 9.73.030–9.73.080—Standards—Authorizations by judge or magistrate—Admissibility of material.
9.73.110 Intercepting, recording, or disclosing private communications—Not unlawful for building owner—Conditions.
9.73.120 Reports—Required, when, contents.
9.73.130 Recording private communications—Authorization—Application for, contents.
9.73.140 Recording private communications—Authorization of or application for—Inventory, contents, service—Availability of recording, applications, and orders.

9.73.030 Intercepting or recording private communication—Consent required—Exceptions. (1) Except as otherwise provided in this chapter, it shall be unlawful for any individual, partnership, corporation, association, or the state of Washington, its agencies, and political subdivisions to intercept, or record any:

(a) Private communication transmitted by telephone, telegraph, radio, or other device between two or more individuals between points within or without the state by any device electronic or otherwise designed to record and/or transmit said communication regardless how such device is powered or actuated, without first obtaining the consent of all the participants in the communication;

(b) Private conversation, by any device electronic or otherwise designed to record or transmit such conversation regardless how the device is powered or actuated without first obtaining the consent of all the persons engaged in the conversation.

(2) Notwithstanding the provisions of subsection (1) of this section, wire communications or conversations (a) of an emergency nature, such as the reporting of a fire, crime, or other disaster, or (b) which convey threats of extortion, blackmail, bodily harm, or other unlawful requests or demands, or (c) which occur anonymously or repeatedly or at an extremely inconvenient hour, whether or not conversation ensues, may be recorded with the consent of one party to the conversation.

(3) Where consent by all parties is needed pursuant to this chapter, consent shall be considered obtained whenever one party has announced to all other parties engaged in the communication or conversation, in any reasonably effective manner, that such communication or conversation is about to be recorded or transmitted: *Provided*, That if the conversation is to be recorded that said announcement shall also be recorded.

(4) An employee of any regularly published newspaper, magazine, wire service, radio station, or television station acting in the course of bona fide news gathering duties on a full time or contractual or part time basis, shall be deemed to have consent to record and divulge communications or conversations otherwise prohibited by this chapter if the consent is expressly given or if the recording or transmitting device is readily apparent or obvious to the speakers. Withdrawal of the consent after the communication has been made shall not prohibit any such employee of a newspaper, magazine, wire service, or radio or television station from divulging the communication or conversation. [1977 1st ex.s. c 363 § 1; 1967 ex.s. c 93 § 1.]

Severability—1967 ex.s. c 93: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1967 ex.s. c 93 § 7.] This applies to RCW 9.73.030–9.73.080.

9.73.060 Violating right of privacy—Civil action for—Liability for damages. Any person who, directly or by means of a detective agency or any other agent, violates the provisions of this chapter shall be subject to legal action for damages, to be brought by any other person claiming that a violation of this statute has

injured his business, his person, or his reputation. A person so injured shall be entitled to actual damages, including mental pain and suffering endured by him on account of violation of the provisions of this chapter, or liquidated damages computed at the rate of one hundred dollars a day for each day of violation, not to exceed one thousand dollars, and a reasonable attorney's fee and other costs of litigation. [1977 1st ex.s. c 363 § 2; 1967 ex.s. c 93 § 4.]

9.73.090 Police and fire personnel exempted from RCW 9.73.030–9.73.080—Standards—Authorizations by judge or magistrate—Admissibility of material. (1) The provisions of RCW 9.73.030 through 9.73.080 shall not apply to police and fire personnel in the following instances:

(a) Recording incoming telephone calls to police and fire stations;

(b) Video and/or sound recordings may be made of arrested persons by police officers responsible for making arrests or holding persons in custody before their first appearance in court. Such video and/or sound recordings shall conform strictly to the following:

(i) The arrested person shall be informed that such recording is being made and the statement so informing him shall be included in the recording;

(ii) The recording shall commence with an indication of the time of the beginning thereof and terminate with an indication of the time thereof;

(iii) At the commencement of the recording the arrested person shall be fully informed of his constitutional rights, and such statements informing him shall be included in the recording;

(iv) The recordings shall only be used for valid police or court activities.

(2) It shall not be unlawful for a law enforcement officer acting in the performance of the officer's official duties to intercept, record, or disclose an oral communication or conversation where the officer is a party to the communication or conversation or one of the parties to the communication or conversation has given prior consent to the interception, recording, or disclosure: *Provided*, That prior to the interception, transmission, or recording the officer shall obtain written or telephonic authorization from a judge or magistrate, who shall approve the interception, recording, or disclosure of communications or conversations with a nonconsenting party for a reasonable and specified period of time, if there is probable cause to believe that the nonconsenting party has committed, is engaged in, or is about to commit a felony: *Provided however*, That if such authorization is given by telephone the authorization and officer's statement justifying such authorization must be electronically recorded by the judge or magistrate on a recording device in the custody of the judge or magistrate at the time transmitted and the recording shall be retained in the court records and reduced to writing as soon as possible thereafter.

Any recording or interception of a communication or conversation incident to a lawfully recorded or intercepted communication or conversation pursuant to this subsection shall be lawful and may be divulged.

All recordings of communications or conversations made pursuant to this subsection shall be retained for as long as any crime may be charged based on the events or communications or conversations recorded.

(3) Communications or conversations authorized to be intercepted, recorded, or disclosed by this section shall not be inadmissible under RCW 9.73.050.

(4) Authorizations issued under this section shall be effective for not more than seven days, after which period the issuing authority may upon application of the officer who secured the original authorization renew or continue the authorization for an additional period not to exceed seven days. [1977 1st ex.s. c 363 § 3; 1970 ex.s. c 48 § 1.]

Severability—1970 ex.s. c 48: "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 chapter so adjudged to be invalid or unconstitutional." [1970 ex.s. c 48 § 3.] This applies to RCW 9.73.090 and 9.73.100.

9.73.110 Intercepting, recording, or disclosing private communications—Not unlawful for building owner—Conditions. It shall not be unlawful for the owner or person entitled to use and possession of a building, as defined in RCW 9A.04.110(5), or the agent of such person, to intercept, record, or disclose communications or conversations which occur within such building if the persons engaged in such communication or conversation are engaged in a criminal act at the time of such communication or conversation by virtue of unlawful entry or remaining unlawfully in such building. [1977 1st ex.s. c 363 § 4.]

9.73.120 Reports—Required, when, contents. (1) Within thirty days after the expiration of an authorization or an extension or renewal thereof issued pursuant to RCW 9.73.090(2) as now or hereafter amended, the issuing or denying judge shall make a report to the administrator for the courts stating that:

(a) An authorization, extension or renewal was applied for;

(b) The kind of authorization applied for;

(c) The authorization was granted as applied for, was modified, or was denied;

(d) The period of recording authorized by the authorization and the number and duration of any extensions or renewals of the authorization;

(e) The offense specified in the authorization or extension or renewal of authorization;

(f) The identity of the person authorizing the application and of the investigative or law enforcement officer and agency for whom it was made; and

(g) The character of the facilities from which or the place where the communications were to be recorded.

(2) In addition to reports required to be made by applicants pursuant to federal law, all judges of the superior court authorized to issue authority pursuant to this chapter shall make annual reports on the operation of this chapter to the administrator for the courts. The reports by the judges shall contain (a) the number of

applications made; (b) the number of authorizations issued; (c) the respective periods of such authorizations; (d) the number and duration of any renewals thereof; (e) the crimes in connection with which the conversations were sought; (f) the names of the applicants; and (g) such other and further particulars as the administrator for the courts may require.

The chief justice of the supreme court shall annually report to the governor and the legislature on such aspects of the operation of this chapter as he deems appropriate including any recommendations he may care to make as to legislative changes or improvements to effectuate the purposes of this chapter and to assure and protect individual rights. [1977 1st ex.s. c 363 § 5.]

9.73.130 Recording private communications—

Authorization—Application for, contents. Each application for an authorization to record communications or conversations pursuant to RCW 9.73.090 as now or hereafter amended shall be made in writing upon oath or affirmation and shall state:

(1) The authority of the applicant to make such application;

(2) The identity and qualifications of the investigative or law enforcement officers or agency for whom the authority to record a communication or conversation is sought and the identity of whoever authorized the application;

(3) A particular statement of the facts relied upon by the applicant to justify his belief that an authorization should be issued, including:

(a) The identity of the particular person, if known, committing the offense and whose communications or conversations are to be recorded;

(b) The details as to the particular offense that has been, is being, or is about to be committed;

(c) The particular type of communication or conversation to be recorded and a showing that there is probable cause to believe such communication will be communicated on the wire communication facility involved or at the particular place where the oral communication is to be recorded;

(d) The character and location of the particular wire communication facilities involved or the particular place where the oral communication is to be recorded;

(e) A statement of the period of time for which the recording is required to be maintained, if the character of the investigation is such that the authorization for recording should not automatically terminate when the described type of communication or conversation has been first obtained, a particular statement of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

(f) A particular statement of facts showing that other normal investigative procedures with respect to the offense have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous to employ;

(4) Where the application is for the renewal or extension of an authorization, a particular statement of facts showing the results thus far obtained from the recording, or a reasonable explanation of the failure to obtain such results;

(5) A complete statement of the facts concerning all previous applications, known to the individual authorizing and to the individual making the application, made to any court for authorization to record a wire or oral communication involving any of the same facilities or places specified in the application or involving any person whose communication is to be intercepted, and the action taken by the court on each application; and

(6) Such additional testimony or documentary evidence in support of the application as the judge may require. [1977 1st ex.s. c 363 § 6.]

9.73.140 Recording private communications—

Authorization of or application for—Inventory, contents, service—Availability of recording, applications, and orders. Within a reasonable time but not later than thirty days after the termination of the period of the authorization or of extensions or renewals thereof, or the date of the denial of an authorization applied for under RCW 9.73.090 as now or hereafter amended, the issuing authority shall cause to be served on the person named in the authorization or application for an authorization, and such other parties to the recorded communications as the judge may in his discretion determine to be in the interest of justice, an inventory which shall include:

(1) Notice of the entry of the authorization or the application for an authorization which has been denied under RCW 9.73.090 as now or hereafter amended;

(2) The date of the entry of the authorization or the denial of an authorization applied for under RCW 9.73.090 as now or hereafter amended;

(3) The period of authorized or disapproved recording; and

(4) The fact that during the period wire or oral communications were or were not recorded.

The issuing authority, upon the filing of a motion, may in its discretion make available to such person or his attorney for inspection such portions of the recorded communications, applications and orders as the court determines to be in the interest of justice. On an ex parte showing of good cause to the court the serving of the inventory required by this section may be postponed or dispensed with. [1977 1st ex.s. c 363 § 7.]

Chapter 9.81

SUBVERSIVE ACTIVITIES

Sections

9.81.130 Repealed.

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

Chapter 9.94

PRISONERS—STATE PENAL INSTITUTIONS

Sections

9.94.040 Narcotics, controlled substances, alcoholic beverages, weapons—Possession, etc., by prisoner prohibited—Penalty.

9.94.040 Narcotics, controlled substances, alcoholic beverages, weapons—Possession, etc., by prisoner prohibited—Penalty. Every person serving a sentence in any penal institution of this state who, while in such penal institution or while being conveyed to or from such penal institution, or while at any penal institution farm or forestry camp of such institution, or while being conveyed to or from any such place, or while under the custody of institution officials, officers, or employees, possesses or carries upon his person or has under his control any narcotic drug or controlled substance as defined in chapter 69.50 RCW, any alcoholic beverage, or any weapon, firearm, or any instrument which, if used, could produce serious bodily injury to the person of another, is guilty of a felony punishable by imprisonment for not more than five years, which shall be in addition to the sentence being served. [1977 1st ex.s. c 43 § 1; 1975-'76 2nd ex.s. c 38 § 18. Prior: 1955 c 241 § 4.]

Effective date—Severability—1975-'76 2nd ex.s. c 38: See notes following RCW 9A.08.020.

Chapter 9.95

PRISON TERMS, PAROLES AND PROBATION

Sections

9.95.265 Report to governor and legislature.

9.95.265 Report to governor and legislature. The board of prison terms and paroles shall transmit to the governor and to the legislature, as often as the governor may require it, a report of its work, in which shall be given such information as may be relevant. [1977 c 75 § 5; 1955 c 340 § 11. Prior: 1945 c 155 § 1, part; 1935 c 114 § 8, part; Rem. Supp. 1945 § 10249-8, part. Formerly RCW 43.67.040.]

Title 9A

WASHINGTON CRIMINAL CODE

Chapters

9A.16 Defenses.
 9A.32 Homicide.
 9A.48 Arson, reckless burning, and malicious mischief.
 9A.56 Theft and robbery.
 9A.76 Obstructing governmental operation.

Chapter 9A.16

DEFENSES

Sections

9A.16.020 Use of force—When lawful.

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

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

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

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

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

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

(6) Whenever used by any person to prevent a mentally ill, mentally incompetent or mentally disabled person from committing an act dangerous to himself or another, or in enforcing necessary restraint for the protection of his person, or his restoration to health, during such period only as shall be necessary to obtain legal authority for the restraint or custody of his person. [1977 1st ex.s. c 80 § 13; 1975 1st ex.s. c 260 § 9A.16.020.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Chapter 9A.32

HOMICIDE

Sections

9A.32.040 Murder in the first degree—Sentences.
 9A.32.045 Murder in the first degree—Aggravating circumstances—Mitigating circumstances.
 9A.32.046 Murder in the first degree—Conditions under which death penalty mandatory.
 9A.32.047 Murder in the first degree—Life imprisonment, when.

9A.32.040 Murder in the first degree—Sentences. Notwithstanding RCW 9A.32.030(2), any person convicted of the crime of murder in the first degree shall be sentenced as follows:

(1) If, pursuant to a special sentencing proceeding held under RCW 10.94.020, the jury finds that there are one or more aggravating circumstances and that there are not sufficient mitigating circumstances to merit leniency, and makes an affirmative finding on both of the special questions submitted to the jury pursuant to RCW 10.94.020(10), the sentence shall be death;

(2) If, pursuant to a special sentencing proceeding held under RCW 10.94.020, the jury finds that there are one or more aggravating circumstances but fails to find that there are not sufficient mitigating circumstances to merit leniency, or the jury answers in the negative either of the special questions submitted pursuant to RCW 10.94.020(10), the sentence shall be life imprisonment without possibility of release or parole. A person sentenced to life imprisonment under this subsection shall not have that sentence suspended, deferred, or commuted by any judicial officer, and the board of prison terms and paroles shall never parole a prisoner nor reduce the period of confinement. The convicted person shall not be released as a result of any type of good time calculation nor shall the department of social and health services permit the convicted person to participate in any temporary release or furlough program; and

(3) In all other convictions for first degree murder, the sentence shall be life imprisonment. [1977 1st ex.s. c 206 § 3; 1975 1st ex.s. c 260 § 9A.32.040.]

Severability—1977 1st ex.s. c 206: See RCW 10.94.900.

9A.32.045 Murder in the first degree—Aggravating circumstances—Mitigating circumstances. (1) In a special sentencing proceeding under RCW 10.94.020, the following shall constitute aggravating circumstances:

(a) The victim was a law enforcement officer or fire fighter and was performing his or her official duties at the time of the killing and the victim was known or reasonably should have been known to be such at the time of the killing.

(b) At the time of the act resulting in the death, the defendant was serving a term of imprisonment in a state correctional institution or had escaped or was on authorized or unauthorized leave from a state correctional institution, or was in custody in a local jail and subject to commitment to a state correctional institution.

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

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

(e) The murder was of a judge, juror, witness, prosecuting attorney, a deputy prosecuting attorney, or defense attorney because of the exercise of his or her official duty in relation to the defendant.

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

(g) The defendant committed the murder in the course of, in furtherance of, or in immediate flight from the crimes of either (i) robbery in the first or second

degree, (ii) rape in the first or second degree, (iii) burglary in the first degree, (iv) arson in the first degree, or (v) kidnaping in which the defendant intentionally abducted another person with intent to hold the person for ransom or reward, or as a shield or hostage, and the killing was committed with the reasonable expectation that the death of the deceased or another would result.

(h) The murder was committed to obstruct or hinder the investigative, research, or reporting activities of anyone regularly employed as a newsreporter, including anyone self-employed in such capacity.

(2) In deciding whether there are mitigating circumstances sufficient to merit leniency, the jury may consider any relevant factors, including, but not limited to, the following:

(a) The defendant has no significant history of prior criminal activity;

(b) The murder was committed while the defendant was under the influence of extreme mental disturbance;

(c) The victim consented to the homicidal act;

(d) The defendant was an accomplice in a murder committed by another person and the defendant's participation in the homicidal act was relatively minor;

(e) The defendant acted under duress or under the domination of another person;

(f) At the time of the murder, the capacity of the defendant to appreciate the criminality (wrongfulness) of his or her conduct or to conform his or her conduct to the requirements of law was substantially impaired as a result of mental disease or defect; and

(g) The age of the defendant at the time of the crime calls for leniency. [1977 1st ex.s. c 206 § 4; 1975-'76 2nd ex.s. c 9 § 1 (Initiative Measure No. 316 § 1).]

Severability—1977 1st ex.s. c 206: See RCW 10.94.900.

9A.32.046 Murder in the first degree—Conditions under which death penalty mandatory. Once a person is found guilty of murder in the first degree under RCW 9A.32.030(1)(a) with one or more aggravating circumstances and without sufficient mitigating circumstances to merit leniency and the jury has made affirmative findings on both of the special questions submitted pursuant to RCW 10.94.020(10), neither the court nor the jury shall have the discretion to suspend or defer the imposition or execution of the sentence of death. The time of such execution shall be set by the trial judge at the time of imposing sentence and as a part thereof. [1977 1st ex.s. c 206 § 5; 1975-'76 2nd ex.s. c 9 § 2 (Initiative Measure No. 316 § 2).]

Severability—1977 1st ex.s. c 206: See RCW 10.94.900.

9A.32.047 Murder in the first degree—Life imprisonment, when. In the event that the governor commutes a death sentence or in the event that the death penalty is held to be unconstitutional by the United States supreme court or the supreme court of the state of Washington the penalty under RCW 9A.32.046 shall be imprisonment in the state penitentiary for life without possibility of release or parole. A person sentenced to life imprisonment under this section shall not have that sentence suspended, deferred, or commuted by

any judicial officer, and the board of prison terms and paroles shall never parole a prisoner nor reduce the period of confinement. The convicted person shall not be released as a result of any type of good time calculation nor shall the department of social and health services permit the convicted person to participate in any temporary release or furlough program. [1977 1st ex.s. c 206 § 6; 1975-'76 2nd ex.s. c 9 § 3 (Initiative Measure No. 316 § 3).]

Severability—1977 1st ex.s. c 206: See RCW 10.94.900.

Chapter 9A.48

ARSON, RECKLESS BURNING, AND MALICIOUS MISCHIEF

Sections

- 9A.48.080 Malicious mischief in the second degree.
9A.48.100 Malicious mischief—"Physical damage" defined.

9A.48.080 Malicious mischief in the second degree.

Action by owner of damaged or stolen livestock: RCW 4.24.320.

9A.48.100 Malicious mischief—"Physical damage" defined. For the purposes of RCW 9A.48.070 through 9A.48.090 inclusive, "physical damage", in addition to its ordinary meaning, shall include the alteration, damage, or erasure of records, information, data, or computer programs which are electronically recorded for use in computers and shall also include the injury or destruction of livestock. [1977 1st ex.s. c 174 § 1; 1975 1st ex.s. c 260 § 9A.48.100.]

Action by owner of damaged or stolen livestock: RCW 4.24.320.

Chapter 9A.56

THEFT AND ROBBERY

Sections

- 9A.56.080 Theft of livestock.
9A.56.090 Repealed.
9A.56.095 Criminal possession of leased or rented machinery, equipment, or motor vehicle.

9A.56.080 Theft of livestock. (1) Every person who, without lawful authority and with intent to deprive or defraud the owner thereof, wilfully takes, leads, or transports away, conceals, withholds, slaughters, or otherwise appropriates to his own use any horse, mule, cow, heifer, bull, steer, swine, or sheep shall be guilty of theft of livestock.

(2) Theft of livestock is a class B felony. [1977 1st ex.s. c 174 § 2; 1975 1st ex.s. c 260 § 9A.56.080.]

Action by owner of damaged or stolen livestock: RCW 4.24.320.

9A.56.090 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

9A.56.095 Criminal possession of leased or rented machinery, equipment, or motor vehicle. (1) A person is

guilty of criminal possession of leased or rented machinery, equipment or a motor vehicle if the value thereof exceeds one thousand five hundred dollars and if he:

(a) After renting machinery, equipment or a motor vehicle under an agreement in writing which provides for the return of said item to a particular place at a particular time, fails to return the item to said place within the time specified, is thereafter served by registered or certified mail addressed to him at his last known place of residence or business with a written demand to return said item within seventy-two hours from the time of the service of such demand, and wilfully neglects to return said item to any place of business of the lessor within five full business days from the date of service of said notice; or

(b) After leasing machinery, equipment or a motor vehicle under an agreement in writing which provides for periodic rental or lease payments for a period greater than six months duration, fails to pay the lessor of said item the periodic payments when due for a period of ninety days, is thereafter served by registered or certified mail addressed to him at his last known place of residence or business with a written demand to return the item to any place of business of the lessor within seventy-two hours from the time of the service of said demand and wilfully neglects to return said item to any place of business of the lessor within five full business days from the date of service of said notice.

(2) "Wilfully neglects" as used in this section means omits, fails or forebears with intent to deprive the owner of or exert unauthorized control over the property, and specifically excludes the failure to return the item because of a bona fide contract dispute with the owner.

(3) It shall be a defense to any civil action arising out of or involving the arrest or detention of any person who rents or leases machinery, equipment or a motor vehicle that he failed to return the item to any place of business of the lessor within five full business days after receiving written demand therefor.

Criminal possession of leased or rented machinery, equipment or a motor vehicle is a class C felony. [1977 1st ex.s. c 236 § 1.]

Chapter 9A.76

OBSTRUCTING GOVERNMENTAL OPERATION

Sections

- 9A.76.010 Definitions. (Effective July 1, 1978.)

9A.76.010 Definitions. (Effective July 1, 1978.) The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Custody" means restraint pursuant to a lawful arrest or an order of a court: *Provided*, That custody pursuant to chapters 13.30, 13.32, and 13.34 RCW and RCW 74.13.020 and 74.13.031 shall not be deemed custody for purposes of this chapter;

(2) "Detention facility" means any place used for the confinement of a person (a) arrested for, charged with or convicted of an offense, or (b) charged with being or adjudicated to be a juvenile offender as defined in RCW

13.40.020 as now existing or hereafter amended, or (c) held for extradition or as a material witness, or (d) otherwise confined pursuant to an order of a court, except an order under chapters 13.32 and 13.34 RCW, or (e) in any work release, furlough, or other such facility or program;

(3) "Contraband" means any article or thing which a person confined in a detention facility is prohibited from obtaining or possessing by statute, rule, regulation, or order of a court. [1977 1st ex.s. c 291 § 53; 1975 1st ex.s. c 260 § 9A.76.010.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

Title 10 CRIMINAL PROCEDURE

Chapters

10.46	Superior court trial.
10.52	Witnesses—Generally.
10.64	Judgments and sentences.
10.94	Death penalty.
10.97	Washington state criminal records privacy act.

Chapter 10.46 SUPERIOR COURT TRIAL

Sections

10.46.190	Liability of convicted person for costs—Jury fee.
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10.46.190 Liability of convicted person for costs—Jury fee. Every person convicted of a crime or held to bail to keep the peace shall be liable to all the costs of the proceedings against him, including, when tried by a jury in the superior court, a jury fee as provided for in civil actions, and when tried by a jury before a committing magistrate, twenty-five dollars for jury fee, for which judgment shall be rendered and collection had as in cases of fines. The jury fee, when collected for a case tried by the superior court, shall be paid to the clerk, to be by him applied as the jury fee in civil cases is applied. [1977 1st ex.s. c 248 § 1; 1977 1st ex.s. c 53 § 1; 1961 c 304 § 8; Code 1881 § 2105; 1869 p 418 § 3; RRS § 2227.]

Disposition of fines and costs: Chapter 10.82 RCW.

Jury fees: RCW 4.44.100, 4.44.110, 36.18.020.

Jury in justice court: RCW 10.04.050.

Trial juries: Chapter 10.49 RCW.

Chapter 10.52 WITNESSES—GENERALLY

Sections

10.52.020	Competency—Generally.
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10.52.020 Competency—Generally. Witnesses competent to testify in civil cases shall be competent in

criminal prosecutions, but regular physicians or surgeons, clergymen or priests, shall be protected from testifying as to confessions, or information received from any defendant, by virtue of their profession and character. [1977 1st ex.s. c 81 § 1; Code 1881 § 1069; 1873 p 233 § 231; 1854 p 117 § 95; RRS § 2147.]

Witnesses—Competency: Chapter 5.60 RCW; **Rules of court:** CrR 6.12.

Chapter 10.64 JUDGMENTS AND SENTENCES

Sections

10.64.110	Fingerprint of defendant in felony convictions.
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10.64.110 Fingerprint of defendant in felony convictions. Following June 15, 1977, there shall be affixed to the original of every judgment and sentence of a felony conviction in every court in this state and every order adjudicating a juvenile to be a delinquent based upon conduct which would be a felony if committed by an adult, a fingerprint of the defendant or juvenile who is the subject of the order. When requested by the clerk of the court, the actual affixing of fingerprints shall be done by a representative of the office of the county sheriff.

The clerk of the court shall attest that the fingerprints appearing on the judgment in sentence, order of adjudication of delinquency, or docket, is that of the individual who is the subject of the judgment or conviction, order, or docket entry. [1977 1st ex.s. c 259 § 1.]

Chapter 10.94 DEATH PENALTY

Sections

10.94.010	Notice of intention—Filing required, when—Service—Contents—Failure of as bar to request.
10.94.020	Special sentencing proceeding—Procedure.
10.94.030	Mandatory review of sentence by state supreme court—Procedures—Consolidation with appeal.
10.94.900	Severability—1977 1st ex.s. c 206.

10.94.010 Notice of intention—Filing required, when—Service—Contents—Failure of as bar to request. When a defendant is charged with the crime of murder in the first degree as defined in RCW 9A.32.030(1)(a), the prosecuting attorney or the prosecuting attorney's designee shall file a written notice of intention to request a proceeding to determine whether or not the death penalty should be imposed when the prosecution has reason to believe that one or more aggravating circumstances, as set forth in RCW 9A.32.045 as now or hereafter amended, was present and the prosecution intends to prove the presence of such circumstance or circumstances in a special sentencing proceeding under RCW 10.94.020.

The notice of intention to request the death penalty must be served on the defendant or the defendant's attorney and filed with the court within thirty days of the defendant's arraignment in superior court on the

charge of murder in the first degree under RCW 9A.32.030(1)(a). The notice shall specify the aggravating circumstance or circumstances upon which the prosecuting attorney bases the request for the death penalty. The court may, within the thirty day period upon good cause being shown, extend the period for the service and filing of notice.

If the prosecution does not serve and file written notice of intent to request the death penalty within the specified time the prosecuting attorney may not request the death penalty. [1977 1st ex.s. c 206 § 1.]

10.94.020 Special sentencing proceeding—Procedure. (1) If notice of intention to request the death penalty has been served and filed by the prosecution in accordance with RCW 10.94.010, then a special sentencing proceeding shall be held in the event the defendant is found guilty of murder in the first degree under RCW 9A.32.030(1)(a).

(2) If the prosecution has filed a request for the death penalty in accordance with RCW 10.94.010, and the trial jury returns a verdict of murder in the first degree under RCW 9A.32.030(1)(a), then, at such time as the verdict is returned, the trial judge shall reconvene the same trial jury to determine in a separate special sentencing proceeding whether there are one or more aggravating circumstances and whether there are mitigating circumstances sufficient to merit leniency, as provided in RCW 9A.32.045 as now or hereafter amended, and to answer special questions pursuant to subsection (10) of this section. The special sentencing proceeding shall be held as soon as possible following the return of the jury verdict.

(3) At the commencement of the special sentencing proceeding the judge shall instruct the jury as to the nature and purpose of the proceeding and as to the consequences of its findings as provided in RCW 9A.32.040 as now or hereafter amended.

(4) In the special sentencing proceeding, evidence may be presented relating to the presence of any aggravating or mitigating circumstances as enumerated in RCW 9A.32.045 as now or hereafter amended. Evidence of aggravating circumstances shall be limited to evidence relevant to those aggravating circumstances specified in the notice required by RCW 10.94.010.

(5) Any relevant evidence which the court deems to have probative value may be received regardless of its admissibility under usual rules of evidence: *Provided*, That the defendant is accorded a fair opportunity to rebut any hearsay statements: *Provided further*, That evidence secured in violation of the Constitutions of the United States or the state of Washington shall not be admissible.

(6) Upon the conclusion of the evidence, the judge shall give the jury appropriate instructions and the prosecution and the defendant or defendant's counsel shall be permitted to present argument. The prosecution shall open and conclude the argument to the jury.

(7) The jury shall then retire to deliberate. Upon reaching a decision, the jury shall specify each aggravating circumstance that it unanimously determines to have been established beyond a reasonable doubt. In the

event the jury finds no aggravating circumstances the defendant shall be sentenced pursuant to RCW 9A.32.040(3) as now or hereafter amended.

(8) If the jury finds there are one or more aggravating circumstances it must then decide whether it is also unanimously convinced beyond a reasonable doubt there are not sufficient mitigating circumstances to merit leniency. If the jury makes such a finding, it shall proceed to answer the special questions submitted pursuant to subsection (10) of this section.

(9) If the jury finds there are one or more aggravating circumstances but fails to be convinced beyond a reasonable doubt there are not sufficient mitigating circumstances to merit leniency the defendant shall be sentenced pursuant to RCW 9A.32.040(2) as now or hereafter amended.

(10) If the jury finds that there are one or more aggravating circumstances and is unanimously convinced beyond a reasonable doubt that there are not sufficient mitigating circumstances to merit leniency, the jury shall answer the following questions:

(a) Did the evidence presented at trial establish the guilt of the defendant with clear certainty?

(b) Are you convinced beyond a reasonable doubt that there is a probability that the defendant would commit additional criminal acts of violence that would constitute a continuing threat to society?

The state shall have the burden of proving each question and the court shall instruct the jury that it may not answer either question in the affirmative unless it agrees unanimously.

If the jury answers both questions in the affirmative, the defendant shall be sentenced pursuant to RCW 9A.32.040(1) as now or hereafter amended.

If the jury answers either question in the negative the defendant shall be sentenced pursuant to RCW 9A.32.040(2) as now or hereafter amended. [1977 1st ex.s. c 206 § 2.]

10.94.030 Mandatory review of sentence by state supreme court—Procedures—Consolidation with appeal.

(1) Whenever the death penalty is imposed, and upon the judgment becoming final in the trial court, the sentence shall be reviewed on the record by the supreme court of Washington. The clerk of the trial court within ten days after receiving the transcript, shall transmit the entire record and transcript to the supreme court of Washington together with a notice prepared by the clerk and a report prepared by the trial judge. The notice shall set forth the title and docket number of the case, the name of the defendant and the name and address of the defendant's attorney, a narrative statement of the judgment, the offense, and the punishment prescribed. The report shall be in the form of a standard questionnaire prepared and supplied by the supreme court of Washington.

(2) The supreme court of Washington shall consider the punishment as well as any errors enumerated by way of appeal.

(3) With regard to the sentence, the court shall determine:

(a) Whether the evidence supports the jury's findings; and

(b) Whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant.

(4) Both the defendant and the state shall have the right to submit briefs within the time provided by the court, and to present oral argument to the court.

(5) The court shall include in its decision a reference to those similar cases which it took into consideration. In addition to its authority regarding correction of errors, the court, with regard to review of death sentences, shall be authorized to:

(a) Affirm the sentence of death; or

(b) Set the sentence aside and remand the case for resentencing by the trial judge based on the record and argument of counsel. The records of those similar cases referred to by the supreme court of Washington in its decision and the extracts prepared therefor shall be provided to the resentencing judge for the judge's consideration.

(6) The sentence review shall be in addition to direct appeal, if taken, and the review and appeal shall be consolidated for consideration. The court shall render its decision on legal errors enumerated, the factual substantiation of the verdict, and the validity of the sentence. [1977 1st ex.s. c 206 § 7.]

10.94.900 Severability—1977 1st ex.s. c 206. If any provision of this 1977 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. [1977 1st ex.s. c 206 § 10.]

This applies to the amendments to RCW 9A.32.040, 9A.32.045, 9A.32.046, and 9A.32.047 and to RCW 9.01.200, 10.94.010, 10.94.020, 10.94.030, and 10.94.900 as enacted by 1977 1st ex.s. c 206.

Chapter 10.97

WASHINGTON STATE CRIMINAL RECORDS PRIVACY ACT

Sections

10.97.010	Declaration of policy.
10.97.020	Short title.
10.97.030	Definitions.
10.97.040	Dissemination of information shall state disposition of charge—Current and complete information required—Exceptions.
10.97.050	Unrestricted dissemination of certain information—Dissemination of other information to certain persons or for certain purposes—Records of dissemination, contents.
10.97.060	Deletion of certain information, conditions.
10.97.070	Discretionary disclosure of suspect's identity to victim.
10.97.080	Inspection of information by subject—Limitations—Rules governing—Challenge of records and correction of information—Dissemination of corrected information.
10.97.090	Administration of act by state planning agency—Powers and duties.
10.97.100	Fees for dissemination of information.
10.97.110	Action for injunction and damages for violation of chapter—Measure of damages—Action not to affect criminal prosecution.

10.97.120 Penalty for violation of chapter—Criminal prosecution not to affect civil action.

10.97.010 Declaration of policy. The legislature declares that it is the policy of the state of Washington to provide for the completeness, accuracy, confidentiality, and security of criminal history record information and victim, witness, and complainant record information as defined in this chapter. [1977 1st ex.s. c 314 § 1.]

10.97.020 Short title. This chapter may be cited as the Washington State Criminal Records Privacy Act. [1977 1st ex.s. c 314 § 2.]

Reviser's note: The phrase "This 1977 amendatory act" has been changed to "This chapter". This 1977 amendatory act [1977 1st ex.s. c 314] consists of chapter 10.97 RCW and of the amendments by 1977 1st ex.s. c 314 of RCW 42.17.310, 43.43.705, 43.43.710, 43.43.730, and 43.43.810.

10.97.030 Definitions. For purposes of this chapter, the definitions of terms in this section shall apply.

(1) "Criminal history record information" means information contained in records collected by criminal justice agencies, other than courts, on individuals, other than juveniles, consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, including sentences, correctional supervision, and release. The term includes information contained in records maintained by or obtained from criminal justice agencies, other than courts, which records provide individual identification of a person together with any portion of the individual's record of involvement in the criminal justice system as an alleged or convicted offender, except:

(a) Posters, announcements, or lists for identifying or apprehending fugitives or wanted persons;

(b) Original records of entry maintained by criminal justice agencies to the extent that such records are compiled and maintained chronologically and are accessible only on a chronological basis;

(c) Court indices and records of public judicial proceedings, court decisions, and opinions, and information disclosed during public judicial proceedings;

(d) Records of traffic violations which are not punishable by a maximum term of imprisonment of more than ninety days;

(e) Records of any traffic offenses as maintained by the department of motor vehicles for the purpose of regulating the issuance, suspension, revocation, or renewal of drivers' or other operators' licenses and pursuant to RCW 46.52.130 as now existing or hereafter amended;

(f) Records of any aviation violations or offenses as maintained by the aeronautics commission for the purpose of regulating pilots or other aviation operators, and pursuant to RCW 14.04.330 as now existing or hereafter amended;

(g) Announcements of executive clemency.

(2) "Nonconviction data" consists of all criminal history record information relating to an incident which has not led to a conviction or other disposition adverse to the subject, and for which proceedings are no longer actively pending. There shall be a rebuttable presumption that

proceedings are no longer actively pending if more than one year has elapsed since arrest, citation, or service of warrant and no disposition has been entered.

(3) "Conviction record" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the subject.

(4) "Conviction or other disposition adverse to the subject" means any disposition of charges, except a decision not to prosecute, a dismissal, or acquittal: *Provided, however,* That a dismissal entered after a period of probation, suspension, or deferral of sentence shall be considered a disposition adverse to the subject.

(5) "Criminal justice agency" means: (a) A court; or (b) a government agency which performs the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice.

(6) "The administration of criminal justice" means performance of any of the following activities: Detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The term also includes criminal identification activities and the collection, storage, dissemination of criminal history record information, and the compensation of victims of crime.

(7) "Disposition" means the formal conclusion of a criminal proceeding at whatever stage it occurs in the criminal justice system.

(8) "Dissemination" means disclosing criminal history record information or disclosing the absence of criminal history record information to any person or agency outside the agency possessing the information, subject to the following exceptions:

(a) When criminal justice agencies jointly participate in the maintenance of a single record keeping department as an alternative to maintaining separate records, the furnishing of information by that department to personnel of any participating agency is not a dissemination;

(b) The furnishing of information by one criminal justice agency to another for the purpose of processing a matter through the criminal justice system, such as a police department providing information to a prosecutor for use in preparing a charge resulting from an investigation by that department, is not a dissemination;

(c) The reporting of an event to a record keeping agency for the purpose of maintaining the record is not a dissemination.

(9) "State planning agency" shall mean that agency designated by law or executive order to fulfill the functions established by 42 U.S.C. Section 3701, the "Omnibus Crime Control and Safe Streets Act of 1968", as amended. [1977 1st ex.s. c 314 § 3.]

Reviser's note: (1) The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

(2) Powers, duties, and functions of aeronautics commission transferred to department of transportation; see RCW 47.01.031. Term "aeronautics commission" means department of transportation; see RCW 47.68.015.

(3) RCW 14.04.330 recodified as RCW 47.68.330.

10.97.040 Dissemination of information shall state disposition of charge—Current and complete information required—Exceptions. Effective January 1, 1978, no criminal justice agency shall disseminate criminal history record information pertaining to an arrest, detention, indictment, information, or other formal criminal charge made after December 31, 1977, unless the record disseminated states the disposition of such charge to the extent dispositions have been made at the time of the request for the information: *Provided, however,* That if a disposition occurring within ten days immediately preceding the dissemination has not been reported to the agency disseminating the criminal history record information, or if information has been received by the agency within the seventy-two hours immediately preceding the dissemination, that information shall not be required to be included in the dissemination.

Effective January 1, 1978, no criminal justice agency shall disseminate criminal history record information which shall include information concerning a felony or gross misdemeanor without first making inquiry of the identification section of the Washington state patrol for the purpose of obtaining the most current and complete information available, unless one or more of the following circumstances exists:

(1) The information to be disseminated is needed for a purpose in the administration of criminal justice for which time is of the essence and the identification section is technically or physically incapable of responding within the required time;

(2) The full information requested and to be disseminated relates to specific facts or incidents which are within the direct knowledge of the agency which disseminates the information;

(3) The full information requested and to be disseminated is contained in a criminal history record information summary received from the identification section by the agency which is to make the dissemination not more than thirty days preceding the dissemination to be made;

(4) The statute, executive order, court rule, or court order pursuant to which the information is to be disseminated refers solely to information in the files of the agency which makes the dissemination; or

(5) The information requested and to be disseminated is for the express purpose of research, evaluative, or statistical activities to be based upon information maintained in the files of the agency or agencies from which the information is directly sought. [1977 1st ex.s. c 314 § 4.]

10.97.050 Unrestricted dissemination of certain information—Dissemination of other information to certain persons or for certain purposes—Records of dissemination, contents. (1) Conviction records may be disseminated without restriction.

(2) Any criminal history record information which pertains to an incident for which a person is currently being processed by the criminal justice system, including the entire period of correctional supervision extending through final discharge from parole, when applicable, may be disseminated without restriction.

(3) Criminal history record information which includes nonconviction data may be disseminated by a criminal justice agency to another criminal justice agency for any purpose associated with the administration of criminal justice, or in connection with the employment of the subject of the record by a criminal justice or juvenile justice agency. A criminal justice agency may respond to any inquiry from another criminal justice agency without any obligation to ascertain the purpose for which the information is to be used by the agency making the inquiry.

(4) Criminal history record information which includes nonconviction data may be disseminated by a criminal justice agency to implement a statute, ordinance, executive order, or a court rule, decision, or order which expressly refers to records of arrest, charges, or allegations of criminal conduct or other nonconviction data and authorizes or directs that it be available or accessible for a specific purpose.

(5) Criminal history record information which includes nonconviction data may be disseminated to individuals and agencies pursuant to a contract with a criminal justice agency to provide services related to the administration of criminal justice. Such contract must specifically authorize access to criminal history record information, but need not specifically state that access to nonconviction data is included. The agreement must limit the use of the criminal history record information to stated purposes and insure the confidentiality and security of the information consistent with state law and any applicable federal statutes and regulations.

(6) Criminal history record information which includes nonconviction data may be disseminated to individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency. Such agreement must authorize the access to nonconviction data, limit the use of that information which identifies specific individuals to research, evaluative, or statistical purposes, and contain provisions giving notice to the person or organization to which the records are disseminated that the use of information obtained therefrom and further dissemination of such information are subject to the provisions of this chapter and applicable federal statutes and regulations, which shall be cited with express reference to the penalties provided for a violation thereof.

(7) Every criminal justice agency that maintains and disseminates criminal history record information must maintain information pertaining to every dissemination of criminal history record information except a dissemination to the effect that the agency has no record concerning an individual. Information pertaining to disseminations shall include:

(a) An indication of to whom (agency or person) criminal history record information was disseminated;

(b) The date on which the information was disseminated;

(c) The individual to whom the information relates; and

(d) A brief description of the information disseminated.

The information pertaining to dissemination required to be maintained shall be retained for a period of not less than one year. [1977 1st ex.s. c 314 § 5.]

10.97.060 Deletion of certain information, conditions. Criminal history record information which consists of nonconviction data only shall be subject to deletion from criminal justice agency files which are available and generally searched for the purpose of responding to inquiries concerning the criminal history of a named or otherwise identified individual when two years or longer have elapsed since the record became nonconviction data as a result of the entry of a disposition favorable to the defendant, or upon the passage of three years from the date of arrest or issuance of a citation or warrant for an offense for which a conviction was not obtained unless the defendant is a fugitive, or the case is under active prosecution according to a current certification made by the prosecuting attorney.

Such criminal history record information consisting of nonconviction data shall be deleted upon the request of the person who is the subject of the record: *Provided, however,* That the criminal justice agency maintaining the data may, at its option, refuse to make the deletion if:

(1) The disposition was a deferred prosecution or similar diversion of the alleged offender;

(2) The person who is the subject of the record has had a prior conviction for a felony or gross misdemeanor;

(3) The individual who is the subject of the record has been arrested for or charged with another crime during the intervening period.

Nothing in this chapter is intended to restrict the authority of any court, through appropriate judicial proceedings, to order the modification or deletion of a record in a particular cause or concerning a particular individual or event. [1977 1st ex.s. c 314 § 6.]

10.97.070 Discretionary disclosure of suspect's identity to victim. (1) Criminal justice agencies may, in their discretion, disclose to persons who have suffered physical loss, property damage, or injury compensable through civil action, the identity of persons suspected as being responsible for such loss, damage, or injury together with such information as the agency reasonably believes may be of assistance to the victim in obtaining civil redress. Such disclosure may be made without regard to whether the suspected offender is an adult or a juvenile, whether charges have or have not been filed, or a prosecuting authority has declined to file a charge or a charge has been dismissed.

(2) The disclosure by a criminal justice agency of investigative information pursuant to subsection (1) of this section shall not establish a duty to disclose any additional information concerning the same incident or make any subsequent disclosure of investigative information, except to the extent an additional disclosure is compelled by legal process. [1977 1st ex.s. c 314 § 7.]

10.97.080 Inspection of information by subject—Limitations—Rules governing—Challenge of records

and correction of information—Dissemination of corrected information. All criminal justice agencies shall permit an individual who is, or who believes that he may be, the subject of a criminal record maintained by that agency, to appear in person during normal business hours of that criminal justice agency and request to see the criminal history record information held by that agency pertaining to the individual. The individual's right to access and review of criminal history record information shall not extend to data contained in intelligence, investigative, or other related files, and shall not be construed to include any information other than that defined as criminal history record information by this chapter.

Every criminal justice agency shall adopt rules and make available forms to facilitate the inspection and review of criminal history record information by the subjects thereof, which rules may include requirements for identification, the establishment of reasonable periods of time to be allowed an individual to examine the record, and for assistance by an individual's counsel, interpreter, or other appropriate persons.

No person shall be allowed to retain or mechanically reproduce any nonconviction data except for the purpose of challenge or correction when the person who is the subject of the record asserts the belief in writing that the information regarding such person is inaccurate or incomplete. The provisions of chapter 42.17 RCW shall not be construed to require or authorize copying of nonconviction data for any other purpose.

The state planning agency shall establish rules for the challenge of records which an individual declares to be inaccurate or incomplete, and for the resolution of any disputes between individuals and criminal justice agencies pertaining to the accuracy and completeness of criminal history record information. The state planning agency shall also adopt rules for the correction of criminal history record information and the dissemination of corrected information to agencies and persons to whom inaccurate or incomplete information was previously disseminated. Such rules may establish time limitations of not less than ninety days upon the requirement for disseminating corrected information. [1977 1st ex.s. c 314 § 8.]

10.97.090 Administration of act by state planning agency—Powers and duties. The state planning agency is hereby designated the agency of state government responsible for the administration of the 1977 Washington State Criminal Records Privacy Act. The state planning agency may adopt any rules and regulations necessary for the performance of the administrative functions provided for in this chapter.

The state planning agency shall have the following specific administrative duties:

(1) To establish by rule and regulation standards for the security of criminal history information systems in order that such systems and the data contained therein be adequately protected from fire, theft, loss, destruction, other physical hazard, or unauthorized access;

(2) To establish by rule and regulation standards for personnel employed by criminal justice of other state

and local government agencies in positions with responsibility for maintenance and dissemination of criminal history record information; and

(3) To contract with the Washington state auditor or other public or private agency, organization, or individual to perform audits of criminal history record information systems. [1977 1st ex.s. c 314 § 9.]

10.97.100 Fees for dissemination of information. Criminal justice agencies shall be authorized to establish and collect reasonable fees for the dissemination of criminal history record information to agencies and persons other than criminal justice agencies. [1977 1st ex.s. c 314 § 10.]

10.97.110 Action for injunction and damages for violation of chapter—Measure of damages—Action not to affect criminal prosecution. Any person may maintain an action to enjoin a continuance of any act or acts in violation of any of the provisions of this chapter, and if injured thereby, for the recovery of damages and for the recovery of reasonable attorneys' fees. If, in such action, the court shall find that the defendant is violating or has violated any of the provisions of this chapter, it shall enjoin the defendant from a continuance thereof, and it shall not be necessary that actual damages to the plaintiff be alleged or proved. In addition to such injunctive relief, the plaintiff in said action shall be entitled to recover from the defendant the amount of the actual damages, if any, sustained by him if actual damages to the plaintiff are alleged and proved. In any suit brought to enjoin a violation of this chapter, the prevailing party may be awarded reasonable attorneys' fees, including fees incurred upon appeal. Commencement, pendency, or conclusion of a civil action for injunction or damages shall not affect the liability or a person or agency to criminal prosecution for a violation of this chapter. [1977 1st ex.s. c 314 § 11.]

10.97.120 Penalty for violation of chapter—Criminal prosecution not to affect civil action. Violation of the provisions of this chapter shall constitute a misdemeanor, and any person whether as principal, agent, officer, or director for himself or for another person, or for any firm or corporation, public or private, or any municipality who or which shall violate any of the provisions of this chapter shall be guilty of a misdemeanor for each single violation. Any criminal prosecution shall not affect the right of any person to bring a civil action as authorized by this chapter or otherwise authorized by law. [1977 1st ex.s. c 314 § 12.]

Title 11

PROBATE LAW AND PROCEDURE— 1965 ACT

Chapters

- 11.02 General provisions.
- 11.16 Jurisdiction—Venue—Notices.

11.20	Custody, proof and probate of wills.
11.28	Letters testamentary and of administration.
11.40	Claims against estate.
11.52	Provisions for family support.
11.62	Estates under \$10,000—Disposition of debts, personal property taxes, etc., by affidavit.
11.64	Partnership property.
11.68	Settlement of estates without administration.
11.76	Settlement of estates.
11.88	Guardianship—Appointment, qualification, removal of guardians and limited guardians.
11.92	Guardianship—Powers and duties of guardian or limited guardian.
11.94	Power of attorney.

Chapter 11.02

GENERAL PROVISIONS

Sections

11.02.005	Definitions and use of terms.
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11.02.005 Definitions and use of terms. When used in this title, unless otherwise required from the context:

(1) "Personal representative" includes executor, administrator, special administrator, and guardian or limited guardian.

(2) "Net estate" refers to the real and personal property of a decedent exclusive of homestead rights, exempt property, the family allowance and enforceable claims against, and debts of, the estate.

(3) "Representation" refers to a method of determining distribution in which the takers are in unequal degrees of kinship with respect to the intestate, and is accomplished as follows: After first determining who, of those entitled to share in the estate, are in the nearest degree of kinship, the estate is divided into equal shares, the number of shares being the sum of the number of persons who survive the intestate who are in the nearest degree of kinship and the number of persons in the same degree of kinship who died before the intestate but who left issue surviving the intestate; each share of a deceased person in the nearest degree shall be divided among those of his issue who survive the intestate and have no ancestor then living who is in the line of relationship between them and the intestate, those more remote in degree taking together the share which their ancestor would have taken had he survived the intestate. Posthumous children are considered as living at the death of their parent.

(4) "Issue" includes all the lawful lineal descendants of the ancestor and all lawfully adopted children.

(5) "Degree of kinship" shall mean the degree of kinship as computed according to the rules of the civil law; that is, by counting upward from the intestate to the nearest common ancestor and then downward to the relative, the degree of kinship being the sum of these two counts.

(6) "Heirs" denotes those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the real and personal property of a decedent on his death intestate.

(7) "Real estate" includes, except as otherwise specifically provided herein, all lands, tenements, and hereditaments, and all rights thereto, and all interest therein possessed and claimed in fee simple, or for the life of a third person.

(8) "Wills" includes all codicils.

(9) "Codicil" shall mean an instrument executed in the manner provided by this title for wills, which refers to an existing will for the purpose of altering or changing the same, and which need not be attached thereto.

(10) "Guardian" or "limited guardian" means a personal representative of the person or estate of an incompetent or disabled person as defined in RCW 11.88.010 and the term may be used in lieu of "personal representative" wherever required by context.

(11) "Administrator" means a personal representative of the estate of a decedent and the term may be used in lieu of "personal representative" wherever required by context.

(12) "Executor" means a personal representative of the estate of a decedent appointed by will and the term may be used in lieu of "personal representative" wherever required by context.

(13) "Special administrator" means a personal representative of the estate of a decedent appointed for limited purposes and the term may be used in lieu of "personal representative" wherever required by context.

(14) Words that import the singular number only, may also be applied to the plural of persons and things.

(15) Words importing the masculine gender only may be extended to females also. [1977 1st ex.s. c 80 § 14; 1975-'76 2nd ex.s. c 42 § 23; 1965 c 145 § 11.02.005. Former RCW sections: Subd. (3), RCW 11.04.110; subd. (4), RCW 11.04.010; subd. (5), RCW 11.04.100; subd. (6), RCW 11.04.280; subd. (7), RCW 11.04.010; subd. (8) and (9), RCW 11.12.240; subd. (14) and (15), RCW 11.02.040.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Severability—Savings—Construction—1975-'76 2nd ex.s. c 42: See RCW 26.26.900–26.26.905.

Effect of decree of adoption: RCW 26.32.140.

Kindred of the half blood: RCW 11.04.035.

Chapter 11.16

JURISDICTION—VENUE—NOTICES

Sections

11.16.083	Waiver of notice.
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11.16.083 Waiver of notice. Notwithstanding any other provision of this title, no notice of any hearing in probate or probate proceeding need be given to any legally competent person who is interested in any hearing in any probate as an heir, legatee, or devisee of the decedent who has in person or by attorney waived in writing notice of such hearing or proceeding. Such

waiver of notice may apply to either a specific hearing or proceeding, or to any and all hearings and proceedings to be held during the administration of the estate in which event such waiver of notice shall be of continuing effect unless subsequently revoked by the filing of a written notice of revocation of the waiver and the mailing of a copy thereof to the personal representative and his attorney. Unless notice of a hearing is required to be given by publication, if all persons entitled to notice thereof shall have waived such notice, the court may hear the matter forthwith. A guardian of the estate or a guardian ad litem may make such waivers on behalf of his incompetent, and a trustee may make such waivers on behalf of any competent or incompetent beneficiary of his trust. A consul or other representative of a foreign government, whose appearance has been entered as provided by law on behalf of any person residing in a foreign country, may make such waiver of notice on behalf of such person. Any person who submits to the jurisdiction of the court in any hearing shall be deemed to have waived notice thereof. [1977 1st ex.s. c 234 § 1; 1965 c 145 § 11.16.083.]

Severability—1977 1st ex.s. c 234: "If any provisions of this 1977 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." [1977 1st ex.s. c 234 § 30.]

Effective date—Application—1977 1st ex.s. c 234: "This 1977 amendatory act shall take effect on October 1, 1977 and shall apply to all proceedings in probate with respect to decedents whose deaths occurred after the effective date." [1977 1st ex.s. c 234 § 31.]

Appointment of guardian, waiver of notice of hearing: RCW 11.88.040.

Award in lieu of homestead—Notice of hearing: RCW 11.52.014.

Borrowing on general credit of estate—Petition—Notice—Hearing: RCW 11.56.280.

Citations in contest of will: RCW 11.24.020.

Notice of appointment as special representative: RCW 11.28.237.

Notice to creditors when personal representative resigns, dies, or is removed: RCW 11.40.150.

Notice to department of revenue of appointment as personal representative: RCW 82.32.240.

Report of personal representative, notice of hearing: RCW 11.76.020, 11.76.040.

Request for special notice of proceedings in probate: RCW 11.28.240.

Surviving spouse, waiver of notice of hearing on petition for letters: RCW 11.28.131.

Chapter 11.20

CUSTODY, PROOF AND PROBATE OF WILLS

Sections

- 11.20.020 Application for probate—Hearing—Order—Proof—Record of testimony—Affidavits of attesting witnesses.
- 11.20.090 Admission to probate of foreign will.

11.20.020 Application for probate—Hearing—Order—Proof—Record of testimony—Affidavits of attesting witnesses. (1) Applications for the probate of a will and for letters testamentary, or either, may be made to the judge of the court having jurisdiction and the court may immediately hear the proofs and either probate or reject such will as the testimony may justify.

Upon such hearing the court shall make and cause to be entered a formal order, either establishing and probating such will, or refusing to establish and probate the same, and such order shall be conclusive except in the event of a contest of such will as hereinafter provided. All testimony in support of the will shall be reduced to writing, signed by the witnesses, and certified by the judge of the court. If the application for probate of a will does not request the appointment of a personal representative and the court enters an adjudication of testacy establishing such will no further administration shall be required except as commenced pursuant to RCW 11.28.330 or 11.28.340.

(2) In addition to the foregoing procedure for the proof of wills, any or all of the attesting witnesses to a will may, at the request of the testator or, after his decease, at the request of the executor or any person interested under it, make an affidavit before any person authorized to administer oaths, stating such facts as they would be required to testify to in court to prove such will, which affidavit may be written on the will or may be attached to the will or to a photographic copy of the will. The sworn statement of any witness so taken shall be accepted by the court as if it had been taken before the court. [1977 1st ex.s. c 234 § 2; 1974 ex.s. c 117 § 27; 1969 ex.s. c 126 § 1; 1965 c 145 § 11.20.020. Prior: 1917 c 156 § 10; RRS § 1380; prior: 1863 p 212 §§ 85, 86; 1860 p 175 §§ 52, 53.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

Will contests: Chapter 11.24 RCW.

11.20.090 Admission to probate of foreign will.

Wills probated in any other state or territory of the United States, or in any foreign country or state, shall be admitted to probate in this state on the production of a copy of such will and of the original record of probate thereof, certified by the attestation of the clerk of the court in which such probate was made; or if there be no clerk, certification by the attestation of the judge thereof, and by the seal of such officers, if they have a seal. [1977 1st ex.s. c 234 § 3; 1965 c 145 § 11.20.090. Prior: 1917 c 156 § 22; RRS § 1392; prior: Code 1881 § 1370; 1877 p 284 § 1.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Chapter 11.28

LETTERS TESTAMENTARY AND OF ADMINISTRATION

Sections

- 11.28.110 Application for letters of administration or adjudication of intestacy and heirship.
- 11.28.185 Bond or other security of personal representative—When not required—Waiver—Corporate trustee—Additional bond—Reduction—Other security.
- 11.28.237 Notice of appointment as personal representative, pendency of probate.

11.28.340 Order of adjudication of testacy or intestacy and heirship—Entry—Time limitation—Deemed final decree of distribution, when—Purpose—Finality of adjudications.

11.28.110 Application for letters of administration or adjudication of intestacy and heirship. Application for letters of administration, or, application for an adjudication of intestacy and heirship without the issuance of letters of administration shall be made by petition in writing, signed and verified by the applicant or his attorney, and filed with the court, which petition shall set forth the facts essential to giving the court jurisdiction of the case, and state, if known, the names, ages and addresses of the heirs of the deceased and that the deceased died without a will. If the application for an adjudication of intestacy and heirship does not request the appointment of a personal representative and the court enters an adjudication of intestacy no further administration shall be required except as set forth in RCW 11.28.330 or 11.28.340. [1977 1st ex.s. c 234 § 4; 1974 ex.s. c 117 § 29; 1965 c 145 § 11.28.110. Prior: 1917 c 156 § 62; RRS § 1432; prior: Code 1881 § 1389; 1863 p 220 § 123; 1860 p 182 § 90.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

11.28.185 Bond or other security of personal representative—When not required—Waiver—Corporate trustee—Additional bond—Reduction—Other security. When the terms of the decedent's will manifest an intent that the personal representative appointed to administer the estate shall not be required to furnish bond or other security, or when the personal representative is the surviving spouse of the decedent and it appears to the court that the entire estate, after provision for expenses and claims of creditors, will be distributable to such spouse, then such personal representative shall not be required to give bond or other security as a condition of appointment. In all cases where a bank or trust company authorized to act as personal representative is appointed as personal representative, no bond shall be required. In all other cases, unless waived by the court, the personal representative shall give such bond or other security, in such amount and with such surety or sureties, as the court may direct.

Every person required to furnish bond must, before receiving letters testamentary or of administration, execute a bond to the state of Washington conditioned that the personal representative shall faithfully execute the duty of the trust according to law.

The court may at any time after appointment of the personal representative require said personal representative to give a bond or additional bond, the same to be conditioned and to be approved as provided in this section; or the court may allow a reduction of the bond upon a proper showing.

In lieu of bond, the court may in its discretion, substitute other security or financial arrangements, such as provided under RCW 11.88.105, or as the court may

deem adequate to protect the assets of the estate. [1977 1st ex.s. c 234 § 5; 1974 ex.s. c 117 § 46.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

11.28.237 Notice of appointment as personal representative, pendency of probate. Within twenty days after appointment, the personal representative of the estate of a decedent shall cause written notice of his appointment and the pendency of said probate proceedings, to be served personally or by mail to each heir, legatee and devisee of the estate whose names and addresses are known to him, and proof of such mailing or service shall be made by affidavit and filed in the cause. [1977 1st ex.s. c 234 § 6; 1974 ex.s. c 117 § 30; 1969 c 70 § 2; 1965 c 145 § 11.28.237. Prior: 1955 c 205 § 13, part; RCW 11.76.040, part.]

Rules of court: SPR 98.04W.

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

11.28.340 Order of adjudication of testacy or intestacy and heirship—Entry—Time limitation—Deemed final decree of distribution, when—Purpose—Finality of adjudications. Unless, within four months after the entry of the order adjudicating testacy or intestacy and heirship, and the mailing or service of the notice required in RCW 11.28.330 any heir, legatee or devisee of the decedent shall offer a later will for probate or contest an adjudication of testacy in the manner provided in this title for will contests, or offer a will of the decedent for probate following an adjudication of intestacy and heirship, or contesting the determination of heirship, an order adjudicating testacy or intestacy and heirship without appointing a personal representative to administer a decedent's estate shall, as to those persons by whom notice was waived or to whom said notice was mailed or on whom served, be deemed the equivalent of the entry of a final decree of distribution in accordance with the provisions of chapter 11.76 RCW for the purpose of:

(1) Establishing the decedent's will as his last will and testament and persons entitled to receive his estate thereunder; or

(2) Establishing the fact that the decedent died intestate, and those persons entitled to receive his estate as his heirs at law.

The right of an heir, legatee, or devisee to receive the assets of a decedent shall, to the extent otherwise provided by this title, be subject to the prior rights of the decedent's creditors and of any persons entitled to a homestead award or award in lieu of homestead or family allowance, and nothing contained in this section shall be deemed to alter or diminish such prior rights, or to prohibit any person for good cause shown, from obtaining the appointment of a personal representative to administer the estate of the decedent after the entry of an order adjudicating testacy or intestacy and heirship.

However, if the petition for letters testamentary or of administration shall be filed more than four months after the date of the adjudication of testacy or of intestacy and heirship, the issuance of such letters shall not affect the finality of said adjudications. [1977 1st ex.s. c 234 § 7; 1974 ex.s. c 117 § 32.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

Chapter 11.40

CLAIMS AGAINST ESTATE

Sections

11.40.030 Allowance or rejection of claims—Time limitation for rejection—Notification of rejection—Requirements—Compromise of claim.

11.40.030 Allowance or rejection of claims—Time limitation for rejection—Notification of rejection—Requirements—Compromise of claim. (1) Unless the personal representative shall, within six months after the date of first publication of notice to creditors, or within six months after the date of filing of a copy of the notice to creditors with the clerk of the court, whichever is later, have obtained an order extending the time for his allowance or rejection of claims timely and properly served and filed, all claims not exceeding one thousand dollars presented within the time and in the manner provided in RCW 11.40.010 and 11.40.020 as now or hereafter amended, shall be deemed allowed and may not thereafter be rejected, unless the personal representative shall, within six months after the date of first publication of notice to creditors or within six months after the date of filing of a copy of the notice to creditors with the clerk of the court, whichever is later, or any extended time, notify the claimant of its rejection, in whole or in part.

(2) When a claim exceeding one thousand dollars is presented within the time and in the manner provided in RCW 11.40.010 and 11.40.020 as now or hereafter amended, it shall be the duty of the personal representative to indorse thereon his allowance or rejection. A claimant after a claim has been on file for at least thirty days may notify the personal representative that he will petition the court to have the claim allowed. If the personal representative fails to file an allowance or rejection of such claim twenty days after the receipt of such notice, the claimant may note the matter up for hearing and the court shall hear the matter and determine whether the claim should be allowed or rejected, in whole or in part. If at the hearing the claim is substantially allowed the court may allow petitioner reasonable attorney's fees of not less than one hundred dollars chargeable against the estate.

(3) If the personal representative shall reject the claim, in whole or in part, he shall notify the claimant of said rejection and file in the office of the clerk, an affidavit showing such notification and the date thereof. Said notification shall be by personal service or certified mail addressed to the claimant at his address as stated in

the claim; if a person other than the claimant shall have signed said claim for or on behalf of the claimant, and said person's business address as stated in said claim is different from that of the claimant, notification of rejection shall also be made by personal service or certified mail upon said person; the date of the postmark shall be the date of notification. The notification of rejection shall advise the claimant, and the person making claim on his, her, or its behalf, if any, that the claimant must bring suit in the proper court against the personal representative within thirty days after notification of rejection or before expiration of the time for serving and filing claims against the estate, whichever period is longer, and that otherwise the claim will be forever barred.

(4) The personal representative may, either before or after rejection of any claim compromise said claim, whether due or not, absolute or contingent, liquidated or unliquidated, if it appears to the personal representative that such compromise is in the best interests of the estate. [1977 1st ex.s. c 234 § 8; 1974 ex.s. c 117 § 35; 1965 c 145 § 11.40.030. Prior: 1963 c 43 § 1; 1917 c 156 § 109; RRS § 1479; prior: Code 1881 § 1469; 1873 p 285 § 156; 1854 p 281 § 82.]

Rules of court: SPR 98.08W, 98.10W, 98.12W.

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

Chapter 11.52

PROVISIONS FOR FAMILY SUPPORT

Sections

11.52.012 Award—Effect—Conditions under which award may be denied or reduced.

11.52.022 Award in addition to homestead—Conditions under which such award may be denied or reduced.

11.52.012 Award—Effect—Conditions under which award may be denied or reduced. Such award shall be made by an order or judgment of the court and shall vest the absolute title, and thereafter there shall be no further administration upon such portion of the estate so set off, but the remainder of the estate shall be settled as other estates: *Provided*, That no property of the estate shall be awarded or set off, as provided in RCW 11.52-.010 through 11.52.024, as now or hereafter amended, to a surviving spouse who has feloniously killed the deceased spouse: *Provided further*, That if it shall appear to the court, either (1) that there are children of the deceased by a former marriage or by adoption prior to decedent's marriage to petitioner, or (2) that the petitioning surviving spouse has abandoned his or her minor children or wilfully and wrongfully failed to provide for them, or (3) if such surviving spouse or minor children are entitled to receive property not subject to probate, including insurance, by reason of the death of the deceased spouse in the sum of twenty thousand dollars, or more, then the award in lieu of homestead and exemptions shall lie in the discretion of the court, and that whether there shall be an award and the amount thereof shall be determined by the court, which shall

enter such decree as shall be just and equitable but not in excess of the award provided herein. [1977 1st ex.s. c 234 § 9; 1974 ex.s. c 117 § 8; 1965 c 145 § 11.52.012. Prior: 1951 c 264 § 3; 1949 c 102 § 1, part; 1945 c 197 § 1, part; 1927 c 185 § 1, part; 1917 c 156 § 103, part; Rem. Supp. 1949 § 1473, part; prior: 1891 c 155 § 24, part; 1886 p 170 § 1, part; 1883 p 44 § 1, part; Code 1881 § 1460, part; 1877 p 209 § 3, part; 1873 p 283 § 146, part; 1854 p 279 § 71, part.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

Inheritance rights of slayers: Chapter 11.84 RCW.

11.52.022 Award in addition to homestead—Conditions under which such award may be denied or reduced. If the value of the homestead, exclusive of all such liens, be less than twenty thousand dollars, the court, upon being satisfied that the funeral expenses, expenses of last sickness and of administration, have been paid or provided for, shall set off and award additional property, either separate or community, in lieu of such deficiency, so that the value of the homestead, exclusive of all such liens and expenses when added to the value of the other property awarded, exclusive of all such liens and expenses shall equal twenty thousand dollars: *Provided*, That if it shall appear to the court, either (1) that there are children of the deceased by a former marriage or by adoption prior to decedent's marriage to petitioner, or (2) that the petitioning surviving spouse has abandoned his or her minor children or wilfully and wrongfully failed to provide for them, or (3) that such surviving spouse is, or any minor child entitled to an award under RCW 11.52.030 is, entitled to receive property not subject to probate, including insurance by reason of the death of the deceased spouse in the sum of twenty thousand dollars, or more, then the award of property in addition to the homestead, where the homestead is of less than twenty thousand dollars in value, shall lie in the discretion of the court, and that whether there shall be an award in addition to the homestead and the amount thereof shall be determined by the court, which shall enter such decree as shall be just and equitable, but not in excess of the award provided herein. [1977 1st ex.s. c 234 § 10; 1974 ex.s. c 117 § 10; 1971 ex.s. c 12 § 4; 1965 c 145 § 11.52.022. Prior: 1963 c 185 § 3; 1951 c 264 § 8; 1949 c 102 § 2, part; 1945 c 198 § 1, part; 1927 c 104 § 1, part; 1917 c 156 § 104, part; Rem. Supp. 1949 § 1474, part; prior: 1891 c 155 § 24, part; 1886 p 170 § 1, part; 1883 p 44 § 1, part; Code 1881 § 1460, part; 1877 p 209 § 3, part; 1873 p 283 § 146, part; 1854 p 279 § 71, part.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

Severability—1971 ex.s. c 12: See note following RCW 6.12.050.

Chapter 11.62

ESTATES UNDER \$10,000—DISPOSITION OF DEBTS, PERSONAL PROPERTY TAXES, ETC., BY AFFIDAVIT

Sections

11.62.005	Definitions.
11.62.010	Disposition of personal property, debts by affidavit, proof of death—Contents of affidavit—Procedure—Inheritance taxes—Securities.
11.62.020	Effect of affidavit and proof of death—Discharge and release of transferor—Refusal to pay or deliver—Procedure—False affidavit—Conflicting affidavits—Accountability.

11.62.005 Definitions. As used in this chapter, the following terms shall have the meanings indicated.

(1) "Personal property" shall include any tangible personal property, any instrument evidencing a debt, obligation, stock, chose in action, license or ownership, any debt or any other intangible property.

(2) (a) "Successor" and "successors" shall mean (subject to subsection (2)(b) of this section):

(i) That person or those persons who are entitled to the claimed property pursuant to the terms and provisions of the last will and testament of the decedent or by virtue of the laws of intestate succession contained in this title; and/or

(ii) The surviving spouse of the decedent to the extent that the surviving spouse is entitled to the property claimed as his or her undivided one-half interest in the community property of said spouse and the decedent.

(b) Any person claiming to be a successor solely by reason of being a creditor of the decedent or of the decedent's estate shall be excluded from the definition of "successor".

(3) "Person" shall mean any individual or organization.

(4) "Organization" shall include a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity. [1977 1st ex.s. c 234 § 29.]

Application, emergency—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

11.62.010 Disposition of personal property, debts by affidavit, proof of death—Contents of affidavit—Procedure—Inheritance taxes—Securities. (1) At any time after forty days from the date of a decedent's death, any person who is indebted to or who has possession of any personal property belonging to the decedent or to the decedent and his or her surviving spouse as a community, which debt or personal property is an asset which is subject to probate, shall pay such indebtedness or deliver such personal property, or so much of either as is claimed, to a person claiming to be a successor of the decedent upon receipt of proof of death and of an affidavit made by said person which meets the requirements of subsection (2) of this section.

(2) An affidavit which is to be made pursuant to this section shall state:

(a) The claiming successor's name and address, and that the claiming successor is a "successor" as defined in RCW 11.62.005;

(b) That the decedent was a resident of the state of Washington on the date of his death;

(c) That the value of the decedent's entire estate subject to probate, not including the surviving spouse's community property interest in any assets which are subject to probate in the decedent's estate, wherever located, less liens and encumbrances, does not exceed ten thousand dollars;

(d) That forty days have elapsed since the death of the decedent;

(e) That no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction;

(f) That all debts of the decedent including funeral and burial expenses have been paid or provided for;

(g) A description of the personal property and the portion thereof claimed, together with a statement that such personal property is subject to probate;

(h) That the claiming successor has given written notice, either by personal service or by mail, identifying his or her claim, and describing the property claimed, to all other successors of the decedent, and that at least ten days have elapsed since the service or mailing of such notice;

(i) That the claiming successor is either personally entitled to full payment or delivery of the property claimed or is entitled to full payment or delivery thereof on the behalf and with the written authority of all other successors who have an interest therein; and

(j) That the claiming successor has mailed to the inheritance tax division of the state department of revenue a notification of his or her claim in such form as the department of revenue may prescribe, and that at least ten days have elapsed since said mailing.

(3) A transfer agent of any security shall change the registered ownership of the security claimed from the decedent to the person claiming to be the successor with respect to such security upon the presentation of proof of death and of an affidavit made by such person which meets the requirements of subsection (2) of this section. Any governmental agency required to issue certificates of ownership or of license registration to personal property shall issue a new certificate of ownership or of license registration to a person claiming to be a successor of the decedent upon receipt of proof of death and of an affidavit made by such person which meets the requirements of subsection (2) of this section.

(4) Upon receipt of notification from the inheritance tax division of the state department of revenue that an inheritance tax report is requested, the holder of any property subject to claim by a successor hereunder shall withhold payment, delivery, transfer or issuance of such property until provided with an inheritance tax release. [1977 1st ex.s. c 234 § 11; 1974 ex.s. c 117 § 4.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

11.62.020 Effect of affidavit and proof of death—Discharge and release of transferor—Refusal to pay or deliver—Procedure—False affidavit—Conflicting affidavits—Accountability. The person paying, delivering, transferring, or issuing personal property pursuant to RCW 11.62.010 is discharged and released to the same extent as if such person has dealt with a personal representative of the decedent, unless at the time of such payment, delivery, transfer, or issuance, such person had actual knowledge of the falsity of any statement which is required by RCW 11.62.010(2) as now or hereafter amended to be contained in the successor's affidavit. Such person is not required to see to the application of the personal property or to inquire into the truth of any matter specified in RCW 11.62.010 (1) or (2) as now or hereafter amended, or into the payment of any inheritance tax liability.

An organization shall not be deemed to have actual knowledge of the falsity of any statement contained in an affidavit made pursuant to RCW 11.62.010(2) as now or hereafter amended until such time as said knowledge shall have been brought to the personal attention of the individual making the transfer, delivery, payment, or issuance of the personal property claimed under RCW 11.62.010 as now or hereafter amended.

If any person to whom an affidavit and proof of death is delivered refuses to pay, deliver, or transfer any personal property, it may be recovered or its payment, delivery, transfer, or issuance compelled upon proof of their right in a proceeding brought for the purpose by or on behalf of the persons entitled thereto. If more than one affidavit is delivered with reference to the same personal property, the person to whom an affidavit is delivered may pay, deliver, transfer, or issue any personal property in response to the first affidavit received, provided that proof of death has also been received, or alternately implead such property into court for payment over to the person entitled thereto. Any person to whom payment, delivery, transfer, or issuance of personal property is made pursuant to RCW 11.62.010 as now or hereafter amended is answerable and accountable therefor to any personal representative of the estate of the decedent or to any other person having a superior right thereto. [1977 1st ex.s. c 234 § 12; 1974 ex.s. c 117 § 5.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

Chapter 11.64

PARTNERSHIP PROPERTY

Sections

11.64.002	Inventory—Appraisal.
11.64.008	Surviving partner may continue in possession.
11.64.016	Security may be required.
11.64.022	Failure to furnish inventory, list liabilities, permit appraisal, etc.—Show cause—Contempt—Receiver.
11.64.030	Surviving partner or partners may purchase deceased's interest—Valuation—Conditions of sale—Protection against partnership liabilities.

11.64.002 Inventory—Appraisal. Within three months after receiving written request from the personal representative the surviving partner or partners of the partnership shall furnish the personal representative with a verified inventory of the assets of the partnership. The inventory shall state the value of the assets as shown by the books of the partnership and list the liabilities of the partnership. At the request of the personal representative, the surviving partner or partners shall permit the assets of the partnership to be appraised, which appraisal shall include the value of the assets of the partnership and a list of the liabilities. [1977 1st ex.s. c 234 § 13; 1965 c 145 § 11.64.002. Prior: 1951 c 197 § 1; prior: (i) 1917 c 156 § 88; RRS § 1458. (ii) 1917 c 156 § 91; RRS § 1461.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Inventory of estate to identify decedent's share in partnership: RCW 11.44.015(6).

Right to wind up partnership: RCW 25.04.370.

11.64.008 Surviving partner may continue in possession. The surviving partner or partners may continue in possession of the partnership estate, pay its debts, and settle its business, and shall account to the personal representative of the decedent and shall pay over such balances as may, from time to time, be payable to him. [1977 1st ex.s. c 234 § 14; 1965 c 145 § 11.64.008. Prior: 1951 c 197 § 2.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

11.64.016 Security may be required. If the surviving partner or partners commit waste, or if it appears to the court that it is for the best interest of the estate of the decedent, such court may, after a hearing, order the surviving partner or partners to give security for the faithful settlement of the partnership affairs and the payment to the personal representative of any amount due the estate. [1977 1st ex.s. c 234 § 15; 1965 c 145 § 11.64.016. Prior: 1951 c 197 § 3.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

11.64.022 Failure to furnish inventory, list liabilities, permit appraisal, etc.—Show cause—Contempt—Receiver. If the surviving partner or partners fail or refuse to furnish an inventory or list of liabilities, to permit an appraisal, or to account to the personal representative, or to furnish a bond when required pursuant to RCW 11.64.016, said court shall order a citation to issue requiring the surviving partner or partners to appear and show cause why they have not furnished an inventory list of liabilities, or permitted an appraisal or why they should not account to the personal representative or file a bond. The citation shall be served not less than ten days before the return day designated therein, or such shorter period as the court upon a showing of good cause deems appropriate. If the surviving partner or partners neglect or refuse to file an inventory or list of liabilities, or to permit an appraisal, or fail to account to the court or to file a bond, after

they have been directed to do so, they may be punished for a contempt or the court may commit them to jail until they comply with the order of the court. Where the surviving partner or partners fail to file a bond after being ordered to do so by the court, the court may also appoint a receiver of the partnership estate with like powers and duties of receivers in equity, and order the costs and expenses of the proceedings to be paid out of the partnership estate or out of the estate of the decedent, or by the surviving partner or partners personally, or partly by each of the parties. [1977 1st ex.s. c 234 § 16; 1965 c 145 § 11.64.022. Prior: 1951 c 197 § 4.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

11.64.030 Surviving partner or partners may purchase deceased's interest—Valuation—Conditions of sale—Protection against partnership liabilities. The surviving partner or the surviving partners jointly, shall have the right at any time to petition the court to purchase the interests of a deceased partner in the partnership. Upon a hearing pursuant to such petition the court shall, in such manner as it sees fit, determine and by order fix the value of the interest of the deceased partner over and above all partnership debts and obligations, the price, terms, and conditions of such sale and the period of time during which the surviving partner or partners shall have the prior right to purchase the interest of the deceased partner. If any such surviving partner be also the personal representative of the estate of the deceased partner, such fact shall not affect his right to purchase, or to join with the other surviving partners to purchase such interest in the manner hereinbefore provided.

The court shall make such orders in connection with such sale as it deems proper or necessary to protect the estate of the deceased against any liability for partnership debts or obligations. [1977 1st ex.s. c 234 § 17; 1965 c 145 § 11.64.030. Prior: 1951 c 197 § 5; prior: 1917 c 156 § 89; 1859 p 186 §§ 120–130; 1854 p 274 §§ 46–53; RRS § 1459.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Chapter 11.68

SETTLEMENT OF ESTATES WITHOUT ADMINISTRATION

Sections

11.68.010	Settlement without court intervention—Sol- vency—Order of solvency—Notice.
11.68.030	Nonintervention powers—Order of solvency— Bond.
11.68.040	Application for nonintervention powers—Intestacy or personal representative not named— Notice—Requirements—Hearing on petition.
11.68.050	Objections to granting of nonintervention powers— Restrictions on powers—No objections.
11.68.060	Death, resignation or disablement of personal repre- sentative—Successor to administer noninterven- tion powers.
11.68.070	Procedure when personal representative recreant to trust or subject to removal.
11.68.080	Order of solvency—Vacation or restriction.

- 11.68.100 Closing of estate—Alternative decrees—
Notice—Hearing—Fees.
- 11.68.110 Declaration of completion of probate—Con-
tents—Filing—Form—Notice—Waiver of
notice.

**11.68.010 Settlement without court interven-
tion—Solvency—Order of solvency—Notice.** Subject to the provisions of this chapter, if the estate of a decedent, who died either testate or intestate, is solvent, and if the personal representative is other than a creditor of the decedent not designated as personal representative in the decedent's will, such estate shall be managed and settled without the intervention of the court; the fact of solvency shall be established by the entry of an order of solvency. An order of solvency may be entered at the time of the appointment of the personal representative or at any time thereafter where it appears to the court by the petition of the personal representative, or the inventory filed, and/or other proof submitted, that the estate of the decedent is solvent, and that notice of the application for an order of solvency has been given to those persons entitled thereto when required by RCW 11.68.040 as now or hereafter amended. [1977 1st ex.s. c 234 § 18; 1974 ex.s. c 117 § 13; 1969 c 19 § 1; 1965 c 145 § 11.68.010. Prior: 1955 c 205 § 5; prior: 1917 c 156 § 92, part; 1897 c 98 § 1, part; Code 1881 § 1443, part; 1869 p 298 § 1, part; 1868 p 49 § 2, part; RRS § 1462, part.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

Distribution of estates to minors: RCW 11.76.095.

Duty of personal representative to notify department of revenue of administration: RCW 82.32.240.

Inventory: RCW 11.44.015.

List of heirs to be filed with clerk: RCW 83.36.040.

Notice of appointment as personal representative: RCW 11.28.237.

Notice of hearing on final report and petition for distribution: RCW 11.76.040.

Notice to creditors: RCW 11.40.010.

Request for special notice in proceedings in probate: RCW 11.28.240.

11.68.030 Nonintervention powers—Order of solvency—Bond. Subject to giving prior notice when required under RCW 11.68.040 as now or hereafter amended and the entry of an order of solvency, the personal representative, other than a decedent's creditor, of an estate of a decedent who died intestate or the personal representative, other than a decedent's creditor, with the will annexed of the estate of a decedent who died testate shall have the power to administer the estate without further intervention of court after the entry of an order of solvency and furnishing bond when required. [1977 1st ex.s. c 234 § 19; 1974 ex.s. c 117 § 15; 1965 c 145 § 11.68.030. Prior: 1955 c 205 § 7; prior: 1917 c 156 § 92, part; 1897 c 98 § 1, part; Code 1881 § 1443, part; 1869 p 298 § 1, part; 1868 p 49 § 2, part; RRS § 1462, part.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

Revocation of letters—Causes: RCW 11.28.250.

11.68.040 Application for nonintervention powers—Intestacy or personal representative not named—Notice—Requirements—Hearing on petition. (1) If the decedent shall have died intestate, or the petitioning personal representative is not named in the will as such, and in either case the petitioner wishes to acquire nonintervention powers, the personal representative shall, after filing the petition for order of solvency, give notice of his intention to apply to the court for nonintervention powers to all heirs, devisees, legatees of the decedent, and all persons who have requested notice under RCW 11.28.240, who have not, in writing, either waived notice of the hearing or consented to the entry of an order of solvency; said notice shall be given at least ten days prior to the date fixed by the personal representative for the hearing on his petition for an order of solvency: *Provided*, That no prior notice of said hearing shall be required when the personal representative is:

(a) The surviving spouse of the decedent and the decedent left no issue of a prior marriage; or

(b) A bank or trust company authorized to do trust business in the state of Washington.

(2) The notice required by this section shall be sent by regular mail and proof of mailing of said notice shall be by affidavit filed in the cause. Said notice shall contain the name of the decedent's estate, the probate cause number, the name and address of the personal representative, and shall state in substance as follows:

(a) The personal representative has petitioned the superior court of _____ county, state of Washington, for the entry of an order of solvency and a hearing on said petition will be held on _____, the _____ day of _____, 19___, at _____ o'clock, _____M.;

(b) The petition for order of solvency has been filed with said court;

(c) Upon the entry of an order of solvency by the court, the personal representative will be entitled to administer and close the decedent's estate without further court intervention or supervision;

(d) Any heir, legatee, devisee, or other person entitled to notice shall have the right to appear at the time of the hearing on the petition for an order of solvency to object to the granting of nonintervention powers to the personal representative.

(3) If no notice is required, or all heirs, legatees, devisees, and other persons entitled to notice have either waived notice of said hearing or consented to the entry of an order of solvency as provided in this section, the court may hear the petition for an order of solvency at any time. [1977 1st ex.s. c 234 § 20; 1974 ex.s. c 117 § 16; 1965 c 145 § 11.68.040. Prior: 1955 c 205 § 9; prior: 1917 c 156 § 93; 1897 c 98 § 1, part; Code 1881 § 1443, part; 1869 p 298 § 1, part; 1868 p 49 § 2, part; RRS § 1463.]

Rules of court: SPR 98.04W.

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

11.68.050 Objections to granting of nonintervention powers—Restrictions on powers—No objections. If at the time set for the hearing upon the petition for the entry of an order of solvency, any person entitled to notice under the provisions of RCW 11.68.040 as now or hereafter amended, shall appear and object to the granting of nonintervention powers to the personal representative of the estate, the court shall consider said objections, if any, and the entry of an order of solvency shall be discretionary with the court upon being satisfied by proof as required in RCW 11.68.010 as now or hereafter amended. If an order of solvency is entered, the court may restrict the powers of the personal representative in such manner as the court determines. If no objection is made at the time of the hearing by any person entitled to notice thereof, the court shall enter an order of solvency upon being satisfied by proof as required in RCW 11.68.010 as now or hereafter amended. [1977 1st ex.s. c 234 § 21; 1974 ex.s. c 117 § 17.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

11.68.060 Death, resignation or disablement of personal representative—Successor to administer nonintervention powers. If, after the entry of an order of solvency, any personal representative of the estate of the decedent shall die, resign, or otherwise become disabled from any cause from acting as the nonintervention personal representative, the successor personal representative, other than a creditor of a decedent not designated as a personal representative in the decedent's will, shall administer the estate of the decedent without the intervention of court after notice and hearing as required by RCW 11.68.040 and 11.68.050 as now or hereafter amended, unless at the time of said hearing objections to the granting of nonintervention powers to such successor personal representative shall be made by an heir, legatee, devisee, or other person entitled to notice pursuant to RCW 11.28.240 as now existing or hereafter amended, and unless the court, after hearing said objections shall refuse to grant nonintervention powers to such successor personal representative. If no heir, legatee, devisee, or other person entitled to notice shall appear at the time of the hearing to object to the granting of nonintervention powers to such successor personal representative, the court shall enter an order granting nonintervention powers to the successor personal representative. [1977 1st ex.s. c 234 § 22; 1974 ex.s. c 117 § 18.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

11.68.070 Procedure when personal representative recreant to trust or subject to removal. If any personal representative who has been granted nonintervention powers fails to execute his trust faithfully or is subject to removal for any reason specified in RCW 11.28.250 as now or hereafter amended, upon petition of any unpaid creditor of the estate who has filed a claim or any heir, devisee, legatee, or of any person on behalf of any incompetent heir, devisee, or legatee, such petition being supported by affidavit which makes a prima facie showing of cause for removal or restriction of powers, the court shall cite such personal representative to appear before it, and if, upon hearing of the petition it appears that said personal representative has not faithfully discharged said trust or is subject to removal for any reason specified in RCW 11.28.250 as now or hereafter amended, then, in the discretion of the court the powers of the personal representative may be restricted or the personal representative may be removed and a successor appointed. In the event the court shall restrict the powers of the personal representative in any manner, it shall endorse the words "Powers restricted" upon the original order of solvency together with the date of said endorsement, and in all such cases the cost of the citation, hearing, and reasonable attorney's fees may be awarded as the court determines. [1977 1st ex.s. c 234 § 23; 1974 ex.s. c 117 § 19.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

11.68.080 Order of solvency—Vacation or restriction. After such notice as the court may require, the order of solvency shall be vacated or restricted upon the petition of any personal representative, heir, legatee, devisee, or creditor, if supported by proof satisfactory to the court that said estate has become insolvent.

If, after hearing, the court shall vacate or restrict the prior order of solvency, the court shall endorse the term "Vacated" or "Powers restricted" upon the original order of solvency together with the date of said endorsement. [1977 1st ex.s. c 234 § 24; 1974 ex.s. c 117 § 20.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

11.68.100 Closing of estate—Alternative decrees—Notice—Hearing—Fees. (1) When the estate is ready to be closed, the court, upon application by the personal representative who has nonintervention powers, shall have the authority and it shall be its duty, to make and cause to be entered a decree which either:

(a) Finds and adjudges that all approved claims of the decedent have been paid, finds and adjudges the heirs of the decedent or those persons entitled to take under his will, and distributes the property of the decedent to the persons entitled thereto; or

(b) Approves the accounting of the personal representative and settles the estate of the decedent in the manner provided for in the administration of those estates in

which the personal representative has not acquired non-intervention powers.

(2) Either decree provided for in this section shall be made after notice given as provided for in the settlement of estates by a personal representative who has not acquired nonintervention powers. The petition for either decree provided for in this section shall state the fees paid or proposed to be paid to the personal representative, his attorneys, accountants, and appraisers, and any heir, devisee, or legatee whose interest in the assets of a decedent's estate would be reduced by the payment of said fees shall receive a copy of said petition with the notice of hearing thereon; at the request of the personal representative or any said heir, devisee, or legatee, the court shall, at the time of the hearing on either petition, determine the reasonableness of said fees. The court shall take into consideration all criteria forming the basis for the determination of the amount of such fees as contained in the code of professional responsibility; in determining the reasonableness of the fees charged by any personal representative, accountants, and appraisers the court shall take into consideration the criteria forming the basis for the determination of attorney's fees, to the extent applicable, and any other factors which the court determines to be relevant in the determination of the amount of fees to be paid to such personal representative. [1977 1st ex.s. c 234 § 25; 1974 ex.s. c 117 § 22.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

11.68.110 Declaration of completion of probate—Contents—Filing—Form—Notice—Waiver of notice. If a personal representative who has acquired nonintervention powers shall not apply to the court for either final decree provided for in RCW 11.68.100 as now or hereafter amended, the personal representative shall, when the administration of the estate has been completed, file a declaration to that effect, which declaration shall state as follows:

(1) The date of the decedent's death, and his residence at the time of death, whether or not the decedent died testate or intestate, and if testate, the date of his last will and testament and the date of the order admitting said will to probate;

(2) That each creditor's claim which was justly due and properly presented as required by law has been paid or otherwise disposed of by agreement with the creditor, and that the amount of state inheritance and federal estate tax due as the result of the decedent's death has been determined, settled, and paid;

(3) The personal representative has completed the administration of the decedent's estate without court intervention, and the estate is ready to be closed;

(4) If the decedent died intestate, the names, addresses (if known), and relationship of each heir of the decedent, together with the distributive share of each said heir; and

(5) The amount of fees paid or to be paid to each of the following: (a) Personal representative or representatives, (b) attorney or attorneys, (c) appraiser or appraisers, and (d) accountant or accountants; and that the personal representative believes said fees to be reasonable and does not intend to obtain court approval of the amount of said fees or to submit an estate accounting to the court for approval.

Subject to the requirement of notice as provided in this section, unless an heir, devisee, or legatee of a decedent shall petition the court either for an order requiring the personal representative to obtain court approval of the amount of fees paid or to be paid to the personal representative, his attorneys, appraisers, or accountants, or for an order requiring an accounting, or both, within thirty days from the date of filing a declaration of completion of probate, the personal representative will be discharged and his powers cease thirty days after the filing of said declaration of completion of probate, and said declaration of completion of probate shall, at said time, be the equivalent of the entry of a decree of distribution in accordance with the provisions of chapter 11.76 RCW for all legal intents and purposes.

Within five days of the date of the filing of the declaration of completion, the personal representative or his attorney shall mail a copy of said declaration of completion to each heir, legatee, or devisee of the decedent (who has not waived notice of said filing, in writing, filed in the cause) together with a notice which shall be as follows:

CAPTION OF CASE NOTICE OF FILING OF DECLARATION OF COMPLETION OF PROBATE

NOTICE IS HEREBY GIVEN that the attached Declaration of Completion of Probate was filed by the undersigned in the above-entitled court on the ----- day of -----, 19--; unless you shall file a petition in the above-entitled court requesting the court to approve the reasonableness of said fees, or for an accounting, or both, and serve a copy thereof upon the personal representative or his attorney, within thirty days after the date of said filing, the amount of fees paid or to be paid will be deemed reasonable, the acts of the personal representative will be deemed approved, and the Declaration of Completion of Probate will be final and deemed the equivalent of a Decree of Distribution entered under chapter 11.76 RCW.

If you file and serve a petition within the period specified, the undersigned will request the court to fix a time and place for the hearing of said petition, and you will be notified of the time and place thereof, by mail, or personal service, not less than ten days before the hearing on said petition.

Dated this ----- day of -----, 19--

Personal Representative

If all heirs, devisees, and legatees of the decedent shall waive, in writing, the notice required by this section, the personal representative shall be discharged and the declaration of completion of probate will become effective

as a decree of distribution upon the date of filing thereof. In those instances where the personal representative has been required to furnish bond, and a declaration of completion shall have been filed pursuant to this section, any bond furnished by the personal representative shall be automatically discharged upon the discharge of the personal representative. [1977 1st ex.s. c 234 § 26; 1974 ex.s. c 117 § 23.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

Chapter 11.76 SETTLEMENT OF ESTATES

Sections

11.76.080	Representation of incompetent or disabled person by guardian ad litem or limited guardian— Exception.
11.76.140	Repealed.

11.76.080 Representation of incompetent or disabled person by guardian ad litem or limited guardian—Exception. If there be any alleged incompetent or disabled person as defined in RCW 11.88.010 interested in the estate who has no legally appointed guardian or limited guardian, the court:

(1) At any stage of the proceeding in its discretion and for such purpose or purposes as it shall indicate, may, and

(2) For hearings held pursuant to RCW 11.52.010, 11.52.020, 11.68.040 and 11.76.050, each as now or hereafter amended, or for entry of an order adjudicating testacy or intestacy and heirship when no personal representative is appointed to administer the estate of the decedent, shall appoint some disinterested person as guardian ad litem to represent such allegedly incompetent or disabled person with reference to any petition, proceeding report, or adjudication of testacy or intestacy without the appointment of a personal representative to administer the estate of decedent in which the alleged incompetent or disabled person may have an interest, who, on behalf of the alleged incompetent or disabled person, may contest the same as any other person interested might contest it, and who shall be allowed by the court reasonable compensation for his services: *Provided, however,* That where a surviving spouse is the sole beneficiary under the terms of a will, the court may grant a motion by the personal representative to waive the appointment of a guardian ad litem for a person who is the minor child of such surviving spouse and the decedent and who is incompetent solely for the reason of his being under eighteen years of age. [1977 1st ex.s. c 80 § 15; 1974 ex.s. c 117 § 45; 1971 c 28 § 1; 1969 c 70 § 4; 1965 c 145 § 11.76.080. Prior: 1917 c 156 § 164; RRS § 1534; prior: Code 1881 § 1558; 1854 p 297 § 180.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

"Incompetent" defined: RCW 11.88.010.

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

Chapter 11.88 GUARDIANSHIP—APPOINTMENT, QUALIFICATION, REMOVAL OF GUARDIANS AND LIMITED GUARDIANS

Sections

11.88.005	Legislative intent and purpose.
11.88.010	Authority to appoint—Definitions—Venue.
11.88.030	Petition—Contents—Hearing.
11.88.035	Repealed.
11.88.040	Notice and hearing, when required—Service— Procedure.
11.88.045	Legal counsel and jury trial—Proof—Medical report.
11.88.090	Guardian ad litem—Appointment—Qualifica- tions—Duties—Report—Fee.
11.88.100	Oath and bond of guardian or limited guardian.
11.88.107	When bond may be dispensed with.
11.88.120	Procedure on removal or death of guardian or limited guardian—Delivery of estate to successor.
11.88.125	Stand-by guardian or limited guardian.
11.88.140	Termination of guardianship or limited guardianship.
11.88.150	Administration of deceased incompetent's or disabled person's estate.

11.88.005 Legislative intent and purpose. It is the intent and purpose of the legislature to recognize that disabled persons have special and unique abilities and competencies with varying degrees of disability.

Such persons must be legally protected without the necessity for determination of total incompetency and without the attendant deprivation of civil and legal rights that such a determination requires. [1977 1st ex.s. c 309 § 1; 1975 1st ex.s. c 95 § 1.]

Severability—1977 1st ex.s. c 309: "If any provision of this 1977 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." [1977 1st ex.s. c 309 § 18.]

11.88.010 Authority to appoint—Definitions—Venue. (1) The superior court of each county shall have power to appoint guardians for the persons and estates, or either thereof, of incompetent persons, and guardians for the estates of all such persons who are nonresidents of the state but who have property in such county needing care and attention.

An "incompetent" is any person who is either:

(a) Under the age of majority, as defined in RCW 11.92.010, or

(b) Incompetent by reason of mental illness, developmental disability, senility, habitual drunkenness, excessive use of drugs, or other mental incapacity, of either managing his property or caring for himself or both.

(2) The superior court for each county shall have power to appoint limited guardians for the persons and estates, or either thereof, of disabled persons, who by reason of their disability have need for protection and assistance, but who cannot be found to be fully incompetent, upon investigation as provided by RCW 11.88-.090 as now or hereafter amended. After considering all evidence presented as a result of such investigation, the

court shall impose, by order, only such specific limitations and disabilities on a disabled person to be placed under a limited guardianship as the court finds necessary for such person's protection and assistance. A person shall not be presumed to be incompetent nor shall a person lose any legal rights or suffer any legal disabilities as the result of being placed under a limited guardianship, except as to those rights and disabilities specifically set forth in the court order establishing such a limited guardianship. In addition, the court order shall state the period of time for which it shall be applicable.

For the purposes of chapters 11.88 and 11.92 RCW the term "disabled person" means an individual who is in need of protection and assistance by reason of mental illness, developmental disability, senility, habitual drunkenness, excessive use of drugs, or other mental incapacity, but cannot be found to be fully incompetent.

(3) Venue for petitions for guardianship or limited guardianship shall lie in the county wherein the alleged incompetent or disabled person is domiciled, or if such person is a resident of a state institution for developmentally disabled persons, in either the county wherein such institution is located, the county of domicile, or the county wherein a parent of the alleged incompetent or disabled person is domiciled. [1977 1st ex.s. c 309 § 2; 1975 1st ex.s. c 95 § 2; 1965 c 145 § 11.88.010. Prior: 1917 c 156 § 195; RRS § 1565; prior: Code 1881 § 1604; 1873 p 314 § 299; 1855 p 15 § 1.]

Severability—1977 1st ex.s. c 309: See note following RCW 11.88.005.

11.88.030 Petition—Contents—Hearing. (1)

Any interested person or entity may file a petition for the appointment of himself or some other qualified person, trust company, national bank, or nonprofit corporation authorized in RCW 11.88.020 as now or hereafter amended as the guardian or limited guardian of an incompetent or disabled person. A petition for guardianship or limited guardianship shall state:

(a) The name, age, residence, and post office address of the incompetent or disabled person;

(b) The nature of his alleged incompetency in accordance with RCW 11.88.010;

(c) The approximate value and description of his property, including any compensation, pension, insurance, or allowance to which he may be entitled;

(d) Whether there is, in any state, a guardian or limited guardian for the person or estate of the alleged incompetent or disabled person;

(e) The residence and post office address of the person whom petitioner asks to be appointed guardian or limited guardian;

(f) The names and addresses, and nature of the relationship, so far as known or can be reasonably ascertained, of the persons most closely related by blood or marriage to the alleged incompetent or disabled person;

(g) The name and address of the person or institution having the care and custody of the alleged incompetent or disabled person;

(h) The reason why the appointment of a guardian or limited guardian is sought and the interest of the petitioner in the appointment, and whether the appointment

is sought as guardian or limited guardian of the person, the estate, or both;

(i) The nature and degree of the alleged disability and the specific areas of protection and assistance requested and the limitation of rights requested to be included in the court's order of appointment;

(j) The requested term of the limited guardianship to be included in the court's order of appointment.

(2) No filing fee shall be charged by the court for filing either a petition for guardianship or a petition for limited guardianship if the petition alleges that the alleged incompetent or disabled person has total assets of a value of less than three thousand dollars.

(3) All petitions filed under the provisions of this section shall be heard within forty-five days unless an extension of time is requested by a party within such forty-five day period and granted for good cause shown. [1977 1st ex.s. c 309 § 3; 1975 1st ex.s. c 95 § 4; 1965 c 145 § 11.88.030. Prior: 1927 c 170 § 1; 1917 c 156 § 197; RRS § 1567; prior: 1909 c 118 § 1; 1903 c 130 § 1.]

Severability—1977 1st ex.s. c 309: See note following RCW 11.88.005.

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

11.88.040 Notice and hearing, when required—Service—Procedure. Before appointing a guardian or a limited guardian, notice of a hearing, to be held not less than ten days after service thereof, shall be given personally to the alleged incompetent or disabled person, if over fourteen years of age.

Before appointing a guardian or a limited guardian, notice of a hearing, to be held not less than ten days after service thereof, shall be given by registered or certified mail requesting a return receipt signed by the addressee only, or by personal service in the manner provided for services of summons, to the following:

(1) The alleged incompetent, disabled person, or minor, if under fourteen years of age;

(2) A parent, if the alleged incompetent or disabled person is a minor, and the spouse of the alleged incompetent or disabled person if any;

(3) Any other person who has been appointed as guardian or limited guardian, or the person with whom the alleged incompetent or disabled person resides. No notice need be given to those persons named in subsections (2) and (3) of this section if they have signed the petition for the appointment of the guardian or limited guardian or have waived notice of the hearing. If the petition is by a parent asking for his appointment as guardian or limited guardian of a minor child under the age of fourteen years, or if the petition be accompanied by the written consent of a minor of the age of fourteen years or upward, consenting to the appointment of the guardian or limited guardian asked for, or if the petition be by a nonresident guardian of any minor or incompetent or disabled person, then the court may appoint the guardian without notice of the hearing. The court for good cause may reduce the number of days of notice,

but in every case, at least three days notice shall be given.

The alleged incompetent or disabled person shall be present in court at the final hearing on the petition: *Provided*, That this requirement may be waived at the discretion of the court for good cause shown in the report to be provided by the guardian ad litem pursuant to RCW 11.88.090 as now or hereafter amended, or if no guardian ad litem is required to be appointed pursuant to RCW 11.88.090, as now or hereafter amended, at the discretion of the court for good cause shown by a party. Alternatively, the court may remove itself to the place of residence of the alleged incompetent or disabled person and conduct the final hearing in the presence of the alleged incompetent or disabled person. Final hearings on the petition may be held in closed court without admittance of any person other than those necessary to the action or proceeding.

If presence of the alleged incompetent or disabled person is waived and the court does not remove itself to the place of residence of such person, the guardian ad litem shall appear in person at the final hearing on the petition. [1977 1st ex.s. c 309 § 4; 1975 1st ex.s. c 95 § 5; 1969 c 70 § 1; 1965 c 145 § 11.88.040. Prior: 1927 c 170 § 2; 1923 c 142 § 4; 1917 c 156 § 198; RRS § 1568; prior: 1909 c 118 § 2; 1903 c 130 §§ 2, 3.]

Severability—1977 1st ex.s. c 309: See note following RCW 11.88.005.

Waiver of notice: RCW 11.16.083.

11.88.045 Legal counsel and jury trial—

Proof—Medical report. (1) An alleged incompetent or disabled person is entitled to independent legal counsel at his own expense to represent him in the procedure: *Provided*, That if the alleged incompetent or disabled person is unable to pay for such representation or should such payment result in substantial hardship upon such person the county shall be responsible for such costs: *Provided further*, That when, in the opinion of the court, the rights and interests of an alleged or adjudicated incompetent or disabled person cannot otherwise be adequately protected and represented, the court on its own motion shall appoint an attorney at any time to represent such person.

(2) The alleged incompetent or disabled person is further entitled upon request to a jury trial on the issues of his alleged incompetency or disability. The standard of proof to be applied in a contested case, whether before a jury or the court, shall be that of clear, cogent, and convincing evidence.

(3) In all proceedings for appointment of a guardian or limited guardian, the court must be presented with a medical report in writing from a physician selected by the guardian ad litem appointed pursuant to RCW 11.88.090 as now or hereafter amended pertaining to the alleged incompetent or disabled persons' degree of incompetency or disability including the medical history if reasonably available, the effects of any current medication on appearance or the ability to participate fully in the proceedings, and a medical prognosis specifying the estimated length and severity of any current disability. [1977 1st ex.s. c 309 § 5; 1975 1st ex.s. c 95 § 7.]

Severability—1977 1st ex.s. c 309: See note following RCW 11.88.005.

11.88.090 Guardian ad litem—Appointment—Qualifications—Duties—Report—Fee. (1) Nothing contained in RCW 11.88.080 through 11.88.120, 11.92.010 through 11.92.040, 11.92.060 through 11.92.120, 11.92.170, and 11.92.180, as now or hereafter amended, shall affect or impair the power of any court to appoint a guardian to defend the interests of any incompetent or disabled person interested in any suit or matter pending therein, or to commence and prosecute any suit in his behalf.

(2) Upon receipt of a petition for appointment of guardian or limited guardian, except as provided herein, the court shall appoint a guardian ad litem to represent the best interests of the alleged incompetent or disabled person, who shall be a person found or known by the court to

(a) be free of influence from anyone interested in the result of the proceeding;

(b) have the requisite knowledge, training, or expertise to perform the duties required by this section.

In making this determination the court shall give due consideration to the type of incompetency or disability alleged and to any recommendations made to the court by public or private agencies having appropriate experience or expertise: *Provided*, That no guardian ad litem need be appointed if a parent is petitioning for a guardian or a limited guardian to be appointed for his or her minor child if the minority of the child, as defined by RCW 11.92.010, is the sole basis of the petition. The order appointing the guardian ad litem shall recite the duties set forth in subsection (3) of this section. The appointment of a guardian ad litem shall have no effect on the legal competency of the alleged incompetent or disabled person and such appointment shall not overcome the presumption of competency or full legal and civil rights of the alleged incompetent or disabled person.

(3) The guardian ad litem appointed pursuant to this section shall have the following duties:

(a) To meet and consult with the alleged incompetent or disabled person as soon as practicable following appointment and explain, in language which such person can reasonably be expected to understand, the substance of the petition, the nature of the resultant proceedings, the person's right to contest the petition, the identification of the proposed guardian or limited guardian, the right to a jury trial on the issue of his alleged incompetency or disability, the right to independent legal counsel as provided by RCW 11.88.045, and the right to be present in court at the hearing on the petition;

(b) To provide the court with a written report which shall include the following:

(i) A description of the degree of incompetency or disability;

(ii) An evaluation of the appropriateness of the guardian or limited guardian whose appointment is sought;

(iii) In the event the limited guardianship is ordered, its appropriate duration, and the limits and disabilities to be placed on the disabled person; and

(iv) Any expression of approval or disapproval made by the alleged incompetent or disabled person concerning the proposed guardian or limited guardian or guardianship or limited guardianship.

Such report shall also include a recommendation as to whether or not counsel should be appointed to represent the alleged incompetent or disabled person, and the reasons for such recommendation.

The investigation and report shall be made and forwarded to the court, with copies to the alleged incompetent or disabled person, and his attorney, if any has appeared, and to the petitioner, or his attorney within twenty days after appointment, unless an extension of time has been granted by the court for good cause shown;

(c) To arrange for a written medical report pursuant to RCW 11.88.045 as now or hereafter amended.

(4) If the petition is brought by an interested person or entity requesting the appointment of some other qualified person or entity and a prospective guardian or limited guardian cannot be found, the court shall order the guardian ad litem and any other qualified person or organization to investigate the availability of a possible guardian or limited guardian and to include the findings in a report to the court pursuant to RCW 11.88.090(3)(b) as now or hereafter amended.

(5) The court appointed guardian ad litem shall have the authority, in the event that the alleged incompetent or disabled person is in need of emergency life-saving medical services, and is unable to consent to such medical services due to incompetence or disability pending the hearing on the petition to give consent for such emergency life-saving medical services on behalf of the alleged incompetent or disabled person.

(6) The guardian ad litem shall receive a fee determined by the court. The fee shall be charged to the alleged incompetent or disabled person unless the court finds that such payment would result in substantial hardship upon such person, in which case the county shall be responsible for such costs: *Provided*, That if no guardian or limited guardian is appointed the court may charge such fee to the petitioner or the alleged incompetent or disabled person, or divide the fee, as it deems just; and if the petition is found to be frivolous or not brought in good faith, the guardian ad litem fee shall be charged to the petitioner. The court shall not be required to provide for the payment of a fee to any salaried employee of a public or nonprofit agency. [1977 1st ex.s. c 309 § 6; 1975 1st ex.s. c 95 § 9; 1965 c 145 § 11.88-.090. Prior: 1917 c 156 § 211; RRS § 1581; prior: Code 1881 § 1619; 1873 p 318 § 314; 1860 p 228 § 336.]

Rules of court:

Discipline of attorneys: DRA 4.1.

Settlement of claims of minors: SPR 98.16W.

Severability—1977 1st ex.s. c 309: See note following RCW 11.88.005.

Adoption from minor parent, guardian ad litem appointed for: RCW 26.32.070.

Award in lieu of homestead, appointment for minor children or incompetents: RCW 11.52.014.

Costs against guardian of infant plaintiff: RCW 4.84.140.

Execution against for costs against infant plaintiff: RCW 4.84.140.

Family allowances in probate of property, appointment of guardian ad litem for minor children or incompetents of deceased: Chapter 11.52 RCW.

Homestead, awarding to survivor, guardian ad litem appointed for minor children or incompetents of deceased: RCW 11.52.020.

Insane persons

appearance in civil action: RCW 4.08.060.

appointment for civil actions: RCW 4.08.060.

Justice of the peace, guardian ad litem if defendant minor, appointment of: RCW 12.04.150.

Liability for costs against infant plaintiffs: RCW 4.84.140.

Minors, for

appearance in civil actions: RCW 4.08.050.

appointment for civil actions: RCW 4.08.050.

justice court proceedings: RCW 12.04.150.

Registration of land titles, appointment for minors: RCW 65.12.145.

11.88.100 Oath and bond of guardian or limited guardian. Before letters of guardianship are issued, each guardian or limited guardian shall take and subscribe an oath and, unless dispensed with by order of the court as provided in RCW 11.88.105, file a bond, with sureties to be approved by the court, payable to the state, in such sum as the court may fix, taking into account the character of the assets on hand or anticipated and the income to be received and disbursements to be made, and such bond shall be conditioned substantially as follows:

The condition of this obligation is such, that if the above bound A.B., who has been appointed guardian or limited guardian for C.D., shall faithfully discharge the office and trust of such guardian or limited guardian according to law and shall render a fair and just account of his guardianship or limited guardianship to the superior court of the county of -----, from time to time as he shall thereto be required by such court, and comply with all orders of the court, lawfully made, relative to the goods, chattels, moneys, care, management, and education of such incompetent or disabled person, or his or her property, and render and pay to such incompetent or disabled person all moneys, goods, chattels, title papers, and effects which may come into the hands or possession of such guardian or limited guardian, at such time and in such manner as the court may order or adjudge, then this obligation shall be void, otherwise to be and remain in full force and effect.

The bond shall be for the use of the incompetent or disabled person, and shall not become void upon the first recovery, but may be put in suit from time to time against all or any one of the obligors, in the name and for the use and benefit of any person entitled by the breach thereof, until the whole penalty is recovered thereon. The court may require an additional bond whenever for any reason it appears to the court that an additional bond should be given.

In all guardianships or limited guardianships of the person, and in all guardianship or limited guardianships of the estate, in which the petition alleges that the alleged incompetent or disabled person has total assets of a value of less than three thousand dollars, the court may dispense with the requirement of a bond pending filing of an inventory confirming that the estate has total

assets of less than three thousand dollars: *Provided*, That the guardian or limited guardian shall swear to report to the court any changes in the total assets of the incompetent or disabled person increasing their value to over three thousand dollars: *Provided further*, That said guardian or limited guardian shall file a yearly statement showing the monthly income of the incompetent or disabled person if said monthly income is over the sum of two hundred fifty dollars per month for any three consecutive months. [1977 1st ex.s. c 309 § 7; 1975 1st ex.s. c 95 § 10; 1965 c 145 § 11.88.100. Prior: 1961 c 155 § 1; 1951 c 242 § 1; 1947 c 145 § 1; 1945 c 41 § 1; 1917 c 156 § 203; Rem. Supp. 1947 § 1573; prior: 1905 c 17 § 1; Code 1881 § 1612; 1860 p 226 § 329.]

Severability—1977 1st ex.s. c 309: See note following RCW 11.88.005.

Citation of surety on bond: RCW 11.92.056.

Suretyship: Chapter 19.72 RCW.

11.88.107 When bond may be dispensed with. In all cases where a bank or trust company, authorized to act as guardian or limited guardian, or where a nonprofit corporation is authorized under its articles of incorporation to act as guardian or limited guardian, is appointed as guardian or limited guardian, or acts as guardian or limited guardian under an appointment as such heretofore made, no bond shall be required: *Provided*, That in the case of appointment of a nonprofit corporation court approval shall be required before any bond requirement of this chapter may be dispensed with. [1977 1st ex.s. c 309 § 8; 1975 1st ex.s. c 95 § 12; 1965 c 145 § 11.88.107.]

Severability—1977 1st ex.s. c 309: See note following RCW 11.88.005.

11.88.120 Procedure on removal or death of guardian or limited guardian—Delivery of estate to successor. The court in all cases shall have power to remove guardians or limited guardians for good and sufficient reasons, which shall be entered of record, and to appoint others in their place or in the place of those who may die, who shall give bond and security for the faithful discharge of their duties as prescribed in RCW 11.88.100 as now or hereafter amended; and when any guardian or limited guardian shall be removed or die, and a successor be appointed, the court shall have power to compel such guardian or limited guardian removed to deliver up to such successor all goods, chattels, moneys, title papers, or other effects belonging to such incompetent or disabled person, which may be in the possession of such guardian or limited guardian so removed, or of the personal representatives of a deceased guardian or limited guardian, or in the possession of any other person or persons, or in the possession of a stand-by guardian or limited guardian and upon failure, to commit the party offending to prison, until he complies with the order of the court. [1977 1st ex.s. c 309 § 9; 1975 1st ex.s. c 95 § 14; 1965 c 145 § 11.88.120. Prior: 1917 c 156 § 209; RRS § 1579; prior: Code 1881 § 1616; 1860 p 227 § 333; 1855 p 17 § 11.]

Severability—1977 1st ex.s. c 309: See note following RCW 11.88.005.

11.88.125 Stand-by guardian or limited guardian.

The person appointed by the court as either guardian or limited guardian of the person and/or estate of an incompetent or disabled person, shall file in writing with the court, a designated stand-by limited guardian or guardian to serve as limited guardian or guardian at the death or legal incompetency or disability of the court-appointed guardian or limited guardian. Such stand-by guardian or limited guardian shall have all the powers, duties, and obligations of the regularly appointed guardian or limited guardian and in addition shall, within a period of thirty days from the death or adjudication of incompetency or disability of the regularly appointed guardian or limited guardian, file with the superior court in the county in which the guardianship or limited guardianship is then being administered, a petition for appointment of a substitute guardian or limited guardian. Upon the court's appointment of a new, substitute guardian or limited guardian, the stand-by guardian or limited guardian shall make an accounting and report to be approved by the court, and upon approval of the court, the stand-by guardian or limited guardian shall be released from all duties and obligations arising from or out of the guardianship or limited guardianship.

Letters of guardianship shall be issued to the stand-by guardian or limited guardian upon filing an oath and posting a bond as required by RCW 11.88.100 as now or hereafter amended. The oath may be filed prior to the appointed guardian or limited guardian's death. The provisions of RCW 11.88.100 through 11.88.110 as now or hereafter amended shall apply to stand-by guardians and limited guardians. [1977 1st ex.s. c 309 § 10; 1975 1st ex.s. c 95 § 6.]

Severability—1977 1st ex.s. c 309: See note following RCW 11.88.005.

11.88.140 Termination of guardianship or limited guardianship. (1) *Termination without court order.* A guardianship or limited guardianship is terminated:

(a) Upon the attainment of full and legal age, as defined in RCW 11.92.010 as now or hereafter amended, of any person defined as an incompetent or disabled person pursuant to RCW 11.88.010 as now or hereafter amended solely by reason of youth, RCW 26.28.020 to the contrary notwithstanding;

(b) By an adjudication of competency or an adjudication of termination of disability;

(c) By the death of the incompetent or disabled person;

(d) By expiration of the term of limited guardianship specified in the order appointing the limited guardian, unless prior to such expiration a petition has been filed and served, as provided in RCW 11.88.040 as now or hereafter amended, seeking an extension of such term.

(2) *Termination on court order.* A guardianship or limited guardianship may be terminated by court order after such notice as the court may require:

(a) If the guardianship or limited guardianship is of the estate and the estate is exhausted;

(b) If the guardianship or limited guardianship is no longer necessary for any other reason.

(3) *Effect of termination.* When a guardianship or limited guardianship terminates otherwise than by the death of the incompetent or disabled person, the powers of the guardian or limited guardian cease, except that a guardian or limited guardian of the estate may make disbursements for claims that are or may be allowed by the court, for liabilities already properly incurred for the estate or for the incompetent or disabled person, and for expenses of administration. When a guardianship or limited guardianship terminates by death of the incompetent or disabled person, the guardian or limited guardian of the estate may proceed under RCW 11.88.150 as now or hereafter amended, but the rights of all creditors against the incompetent's or disabled person's estate shall be determined by the law of decedents' estates. [1977 1st ex.s. c 309 § 11; 1975 1st ex.s. c 95 § 16; 1965 c 145 § 11.88.140.]

Severability—1977 1st ex.s. c 309: See note following RCW 11.88.005.

Procedure on removal or death of guardian or limited guardian: RCW 11.88.120.

Settlement of estate upon termination other than by death intestate: RCW 11.92.053.

11.88.150 Administration of deceased incompetent's or disabled person's estate. Upon the death of an incompetent or disabled person intestate the guardian or limited guardian of his estate has power under the letters issued to him and subject to the direction of the court to administer the estate as the estate of the deceased incompetent or disabled person without further letters unless within forty days after death of the incompetent or disabled person a petition is filed for letters of administration or for letters testamentary and the petition is granted. If the guardian or limited guardian elects to administer the estate under his letters of guardianship or limited guardianship, he shall petition the court for an order transferring the guardianship or limited guardianship proceeding to a probate proceeding, and upon court approval, the clerk of the court shall re-index the cause as a decedent's estate, using the same file number which is assigned to the guardianship or limited guardianship proceeding. The guardian or limited guardian shall then be authorized to continue administration of the estate without the necessity for any further petition or hearing. Notice to creditors and other persons interested in the estate shall be published and may be combined with the notice of the guardian's or limited guardian's final account. This notice shall be published in the manner provided in RCW 11.40.010, once each week for three successive weeks, with proof by affidavit of the publication of such notice to be filed with the court. All claims which are not filed within four months after first publication or within four months after the date of filing of the copy of such notice to creditors with the clerk of the court, whichever is later, shall be barred against the estate. Upon the hearing, the account may be allowed and the balance distributed to the persons entitled thereto, after the payment of such claims as may be allowed. Liability on the guardian's or limited guardian's bond shall continue until exonerated

on settlement of his account, and may apply to the complete administration of the estate of the deceased incompetent or disabled person with the consent of the surety. If letters of administration or letters testamentary are granted upon petition filed within forty days after the death of the incompetent or disabled person, the personal representative shall supersede the guardian or limited guardian in the administration of the estate and the estate shall be administered as a decedent's estate as provided in this title, including the publication of notice to creditors and other interested persons and the barring of creditors claims. [1977 1st ex.s. c 309 § 12; 1975 1st ex.s. c 95 § 17; 1965 c 145 § 11.88.150.]

Severability—1977 1st ex.s. c 309: See note following RCW 11.88.005.

Settlement of estate upon termination other than by death intestate: RCW 11.92.053.

Chapter 11.92

GUARDIANSHIP—POWERS AND DUTIES OF GUARDIAN OR LIMITED GUARDIAN

Sections

11.92.040	Duties of guardian or limited guardian in general.
11.92.125	Broker's fee and closing expenses—Sale, exchange, mortgage or lease of real estate.
11.92.170	Removal of property of nonresident incompetent or disabled person.
11.92.190	Detention of person in residential placement facility against their will prohibited—Effect of court order—Service of notice of residential placement.

11.92.040 Duties of guardian or limited guardian in general. It shall be the duty of the guardian or limited guardian:

(1) To make out and file within three months after his appointment a verified inventory of all the property of the incompetent or disabled person which shall come to his possession or knowledge, including a statement of all encumbrances, liens, and other secured charges on any item;

(2) To file annually, within thirty days after the anniversary date of his appointment, and also within thirty days after termination of his appointment, a written verified account of his administration: *Provided*, That the court in its discretion may allow such reports at intervals of up to thirty-six months, with instruction to the guardian or limited guardian that any substantial increase in income or assets or substantial change in the incompetent's or disabled person's condition shall be reported within thirty days of such substantial increase or change;

(3) Consistent with the powers granted by the court, if he is a guardian or limited guardian of the person, to care for and maintain the incompetent or disabled person, assert his or her rights and best interests, and provide timely informed consent to necessary medical procedures, and if the incompetent or disabled person is a minor, to see that the incompetent or disabled person is properly trained and educated and that the incompetent or disabled person has the opportunity to learn a trade, occupation, or profession. The guardian or limited guardian of the person may be required to report the

condition of his incompetent or disabled person to the court, at regular intervals or otherwise as the court may direct: *Provided*, That no guardian or limited guardian may involuntarily commit for mental health treatment, observation, or evaluation an alleged incompetent or disabled person who is, himself or herself, unable or unwilling to give informed consent to such commitment unless the procedures for involuntary commitment set forth in chapters 71.05 or 72.23 RCW are followed: *Provided further*, That nothing in this section shall be construed to allow a guardian or limited guardian to consent to:

- (a) Therapy or other procedure which induces convulsion;
- (b) Surgery solely for the purpose of psychosurgery;
- (c) Amputation;
- (d) Other psychiatric or mental health procedures which are intrusive on the person's body integrity, physical freedom of movement, or the rights set forth in RCW 71.05.370.

A guardian or limited guardian who believes such procedures to be necessary for the proper care and maintenance of the incompetent or disabled person shall petition the court for an order unless the court has previously approved such procedure within thirty days immediately past. The court may make such order only after an attorney is appointed in accordance with RCW 11.88.045, as now or hereafter amended, if none has heretofore appeared, notice is given, and a hearing is held in accordance with RCW 11.88.040, as now or hereafter amended;

(4) If he is a guardian or limited guardian of the estate, to protect and preserve it, to apply it as provided in this chapter, to account for it faithfully, to perform all of the duties required of him by law, and at the termination of the guardianship or limited guardianship, to deliver the assets of the incompetent or disabled person to the persons entitled thereto. Except as provided to the contrary herein, the court may authorize a guardian or limited guardian to do anything that a trustee can do under the provisions of RCW 30.99.070 for a period not exceeding one year from the date of the order or for a period corresponding to the interval in which the guardian's or limited guardian's report is required to be filed by the court pursuant to subsection (2) of this section, whichever period is longer;

(5) To invest and reinvest the property of the incompetent or disabled person in accordance with the rules applicable to investment of trust estates by trustees as provided in chapter 30.24 RCW, except that:

(a) No investments shall be made without prior order of the court in any property other than unconditional interest bearing obligations of this state or of the United States and in obligations the interest and principal of which are unconditionally guaranteed by the United States, and in share accounts or deposits which are insured by an agency of the United States government. Such prior order of the court may authorize specific investments, or, in the discretion of the court, may authorize the guardian or limited guardian during a period not exceeding one year following the date of the order or for a period corresponding to the interval in

which the guardian's or limited guardian's report is required to be filed by the court pursuant to subsection (2) of this section, whichever period is longer, to invest and reinvest as provided in chapter 30.24 RCW without further order of the court;

(b) If it is for the best interests of the incompetent or disabled person that a specific property be used by the incompetent or disabled person rather than sold and the proceeds invested, the court may so order;

(6) To apply to the court for an order authorizing any disbursement on behalf of the incompetent or disabled person: *Provided, however*, That [the] guardian or limited guardian of the estate, or the person, department, bureau, agency, or charitable organization having the care and custody of an incompetent or disabled person, may apply to the court for an order directing the guardian or limited guardian of the estate to pay to the person, department, bureau, agency, or charitable organization having the care and custody of an incompetent or disabled person, or if the guardian or limited guardian of the estate has the care and custody of the incompetent or disabled person, directing the guardian or limited guardian of the estate to apply an amount weekly, monthly, quarterly, semi-annually, or annually, as the court may direct, to be expended in the care, maintenance, and education of the incompetent or disabled person and of his dependents. In proper cases, the court may order payment of amounts directly to the incompetent or disabled person for his maintenance or incidental expenses. The amounts authorized under this section may be decreased or increased from time to time by direction of the court. If payments are made to another under such order of the court, the guardian or limited guardian of the estate is not bound to see to the application thereof. [1977 1st ex.s. c 309 § 13; 1975 1st ex.s. c 95 § 20; 1965 c 145 § 11.92.040. Prior: 1957 c 64 § 1; 1955 c 205 § 15; 1941 c 83 § 1; 1917 c 156 § 205; Rem. Supp. 1941 § 1575; prior: 1895 c 42 § 1; Code 1881 § 1614.]

Severability—1977 1st ex.s. c 309: See note following RCW 11.88.005.

Compulsory school attendance law, duty to comply with: RCW 28A.27.010.

Disabled person, defined: RCW 11.88.010.

11.92.125 Broker's fee and closing expenses—Sale, exchange, mortgage or lease of real estate. In connection with the sale, exchange, mortgage, lease, or grant of easement or license in any property, the court may authorize the guardian or limited guardian to pay, out of the proceeds realized therefrom or out of the estate, the customary and reasonable auctioneer's and broker's fees and any necessary expenses for abstracting title insurance, survey, revenue stamps, and other necessary costs and expenses in connection therewith. [1977 1st ex.s. c 309 § 15; 1965 c 145 § 11.92.125.]

Severability—1977 1st ex.s. c 309: See note following RCW 11.88.005.

11.92.170 Removal of property of nonresident incompetent or disabled person. Whenever it is made to appear that it would be in the best interests of the

incompetent or disabled person, the court may order the transfer of property in this state to a guardian or limited guardian of the estate of the incompetent or disabled person appointed in another jurisdiction, or to a person or institution having similar authority with respect to the incompetent or disabled person. [1977 1st ex.s. c 309 § 16; 1975 1st ex.s. c 95 § 32; 1965 c 145 § 11.92.170. Prior: 1917 c 156 § 217; RRS § 1587; prior: Code 1881 § 1628; 1873 p 320 § 323.]

Severability—1977 1st ex.s. c 309: See note following RCW 11.88.005.

11.92.190 Detention of person in residential placement facility against their will prohibited—Effect of court order—Service of notice of residential placement. No residential treatment facility which provides nursing or other care may detain a person within such facility against their will. Any court order, other than an order issued in accordance with the involuntary treatment provisions of chapters 10.77, 71.05, and 72.23 RCW, which purports to authorize such involuntary detention or purports to authorize a guardian or limited guardian to consent to such involuntary detention on behalf of an incompetent or disabled person shall be void and of no force or effect.

Nothing in this section shall be construed to require a court order authorizing placement of an incompetent or disabled person in a residential treatment facility if such order is not otherwise required by law: *Provided*, That notice of any residential placement of an incompetent or disabled person shall be served, either before or after placement, by the guardian or limited guardian on such person, the guardian ad litem of record, and any attorney of record. [1977 1st ex.s. c 309 § 14.]

Severability—1977 1st ex.s. c 309: See note following RCW 11.88.005.

Chapter 11.94 POWER OF ATTORNEY

Sections

11.94.020 Effect of death, disability or incompetence of principal—Acts without knowledge.

11.94.020 Effect of death, disability or incompetence of principal—Acts without knowledge. (1) The death, disability, or incompetence of any principal who has executed a power of attorney in writing other than a power as described by RCW 11.94.010, does not revoke or terminate the agency as to the attorney in fact, agent, or other person who, without actual knowledge of the death, disability, or incompetence of the principal, acts in good faith under the power of attorney or agency. Any action so taken, unless otherwise invalid or unenforceable, binds the principal and his heirs, devisees, and personal representatives.

(2) An affidavit, executed by the attorney in fact, or agent, stating that he did not have, at the time of doing an act pursuant to the power of attorney, actual knowledge of the revocation or termination of the power of attorney by death, disability, or incompetence, is, in the

absence of a showing of fraud or bad faith, conclusive proof of the nonrevocation or nontermination of the power at that time. If the exercise of the power requires execution and delivery of any instrument which is recordable, the affidavit when authenticated for record is likewise recordable.

(3) This section shall not be construed to alter or affect any provision for revocation or termination contained in the power of attorney. [1977 1st ex.s. c 234 § 27; 1974 ex.s. c 117 § 53.]

Application, effective date—**Severability**—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—**Severability**—**Effective date**—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

Title 12

JUSTICE COURTS—CIVIL PROCEDURE

Chapters

12.12 Trial.

Chapter 12.12

TRIAL

Sections

12.12.030 Jury—Number—Qualifications—Fee (as amended by 1977 1st ex.s. c 53 § 2).

12.12.030 Jury—Number—Qualifications—Fee (as amended by 1977 1st ex.s. c 248 § 2).

12.12.030 Jury—Number—Qualifications—Fee (as amended by 1977 1st ex.s. c 53 § 2). After the appearance of the defendant, and before the justice shall proceed to enquire into the merits of the cause, either party may demand a jury to try the action, which jury shall be composed of six good and lawful persons having the qualifications of jurors in the superior court of the same county, unless the parties shall agree upon a lesser number: *Provided*, That the party demanding the jury shall first pay to the justice the sum of twenty-five dollars, which shall be paid over by the justice to the county, and said amount shall be taxed as costs against the losing party. [1977 1st ex.s. c 53 § 2; 1888 p 118 § 1; Code 1881 § 1770; 1863 p 438 § 51; 1862 p 58 § 1; 1854 p 235 § 70; RRS § 1849.]

12.12.030 Jury—Number—Qualifications—Fee (as amended by 1977 1st ex.s. c 248 § 2). After the appearance of the defendant, and before the justice shall proceed to enquire into the merits of the cause, either party may demand a jury to try the action, which jury shall be composed of six good and lawful persons having the qualifications of jurors in the superior court of the same county, unless the parties shall agree upon a lesser number: *Provided*, That the party demanding the jury shall first pay to the justice the sum of twenty-five dollars, which shall be paid over by the justice to the jury before they are discharged, and said amount shall be taxed as costs against the losing party. [1977 1st ex.s. c 248 § 2; 1888 p 118 § 1; Code 1881 § 1770; 1863 p 438 § 51; 1862 p 58 § 1; 1854 p 235 § 70; RRS § 1849.]

Reviser's note: RCW 12.12.030 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once during the same session of the legislature, see RCW 1.12.025.

Title 13
JUVENILE COURTS AND JUVENILE DELINQUENTS

Chapters

- 13.04 Juvenile courts (Known after July 1, 1978 as Basic juvenile court act).
13.06 Probation services—Special supervision programs.
13.30 Runaway youth act. (Effective July 1, 1978.)
13.32 Juvenile court procedure for families in conflict. (Effective July 1, 1978.)
13.34 Juvenile court act in cases relating to dependency of a child and the termination of a parent and child relationship. (Effective July 1, 1978.)
13.40 Juvenile justice act of 1977.

Chapter 13.04
JUVENILE COURTS

(Known after July 1, 1978 as Basic Juvenile Court Act)

Sections

- 13.04.005 Short title. (Effective July 1, 1978.)
13.04.010 Repealed. (Effective July 1, 1978.)
13.04.011 Definitions. (Effective July 1, 1978.)
13.04.021 Juvenile court—How constituted—Cases tried without jury. (Effective July 1, 1978.)
13.04.030 Juvenile court—Exclusive original jurisdiction. (Effective July 1, 1978.)
13.04.033 Juvenile court—Appeals, procedure—Priority, when. (Effective July 1, 1978.)
13.04.035 Administrator of juvenile court, probation counselor and detention services—Appointment. (Effective July 1, 1978.)
13.04.037 Administrator—Adoption of standards for detention facilities for juveniles by—Revision and inspection. (Effective July 1, 1978.)
13.04.040 Administrator—Appointment of probation counselors and persons in charge of detention facilities by—Powers and duties, compensation. (Effective July 1, 1978.)
13.04.053 Repealed. (Effective July 1, 1978.)
13.04.056 Repealed. (Effective July 1, 1978.)
13.04.060 through 13.04.080 Recodified. (Effective July 1, 1978.)
13.04.091 Recodified. (Effective July 1, 1978.)
13.04.093 Hearings—Presentation of evidence by prosecuting attorney or attorney general, when. (Effective July 1, 1978.)
13.04.095 Repealed. (Effective July 1, 1978.)
13.04.100 Recodified. (Effective July 1, 1978.)
13.04.105 Recodified. (Effective July 1, 1978.)
13.04.110 Repealed. (Effective July 1, 1978.)
13.04.120 Repealed. (Effective July 1, 1978.)
13.04.140 Repealed. (Effective July 1, 1978.)
13.04.150 Recodified. (Effective July 1, 1978.)
13.04.170 Repealed. (Effective July 1, 1978.)
13.04.190 Repealed. (Effective July 1, 1978.)
13.04.200 Secretary of social and health services may place incorrigible juvenile delinquents over sixteen in reformatory—Duration—Definition. (Effective until July 1, 1978.)
13.04.200 Secretary of social and health services may place incorrigible juvenile delinquents over sixteen in reformatory—Duration—Definition.
13.04.210 through 13.04.230 Repealed. (Effective July 1, 1978.)
13.04.250 Repealed. (Effective July 1, 1978.)

- 13.04.260 Recodified. (Effective July 1, 1978.)
13.04.270 Confidential records—Enumerated. (Effective July 1, 1978.)
13.04.272 Confidential records—Release, when—Central record keeping system. (Effective July 1, 1978.)
13.04.274 Confidential records—Right to challenge information therein—Order to seal legal and social files and records, procedure for—Grounds to nullify—Order to destroy records, when. (Effective July 1, 1978.)
13.04.276 Confidential records—Expungement to protect due process rights. (Effective July 1, 1978.)
13.04.278 Records of motor vehicle operation violation forwarded. (Effective July 1, 1978.)

13.04.005 Short title. (Effective July 1, 1978.)
This chapter shall be known as the "basic juvenile court act". [1977 1st ex.s. c 291 § 1.]

Effective date—1977 1st ex.s. c 291: "Section 57 of this 1977 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of state government and its existing public institutions, and shall take effect on July 1, 1977. The remainder of this 1977 amendatory act shall take effect on July 1, 1978." [1977 1st ex.s. c 291 § 83.] Section 57 of 1977 1st ex.s. c 291 is codified as RCW 13.04.030; for codification of the remainder of said 1977 act, see below.

Severability—1977 1st ex.s. c 291: "If any provision of this 1977 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." [1977 1st ex.s. c 291 § 82.] The above annotations apply to RCW 13.04.005, 13.04.011, 13.04.021, 13.04.030, 13.04.033, 13.04.035, 13.04.037, 13.04.040, 13.04.093, 13.04.270, 13.04.272, 13.04.274, 13.04.276, 13.04.278, 13.30.010, 13.30.020, 13.30.030, 13.30.040, 13.32.010, 13.32.020, 13.32.030, 13.32.040, 13.32.050, 13.34.010, 13.34.020, 13.34.030, 13.34.040, 13.34.050, 13.34.060, 13.34.070, 13.34.080, 13.34.090, 13.34.100, 13.34.110, 13.34.120, 13.34.130, 13.34.140, 13.34.150, 13.34.160, 13.34.170, 13.34.180, 13.34.190, 13.34.200, 13.34.210, 13.40.010, 13.40.020, 13.40.030, 13.40.040, 13.40.050, 13.40.060, 13.40.070, 13.40.080, 13.40.090, 13.40.100, 13.40.110, 13.40.120, 13.40.130, 13.40.140, 13.40.150, 13.40.160, 13.40.170, 13.40.180, 13.40.190, 13.40.200, 13.40.210, 13.40.220, 13.40.230, 13.40.240, 9A.76.010, 26.09.400, 26.44.050, 28A.27.070, 74.13.020 and 74.13.031; the recodification of RCW 13.04.060, 13.04.070, 13.04.080, 13.04.091, 13.04.100, 13.04.105, 13.04.150 and 13.04.260 as RCW 13.34.040, 13.34.070, 13.34.080, 13.34.110, 13.34.160, 13.34.170, 13.34.150 and 13.40.300, respectively; and to the repeal of RCW 13.04.010, 13.04.053, 13.04.056, 13.04.095, 13.04.110, 13.04.120, 13.04.140, 13.04.170, 13.04.190, 13.04.200, 13.04.210, 13.04.220, 13.04.230 and 13.04.250.

13.04.010 Repealed. (Effective July 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

13.04.011 Definitions. (Effective July 1, 1978.)
For purposes of this chapter:

(1) "Juvenile", "youth", and "child" shall mean any individual who is under the chronological age of eighteen years;

(2) "Juvenile offender" and "juvenile offense" shall have the meaning ascribed in RCW 13.40.010 through 13.40.240; and

(3) "Court" when used without further qualification shall mean the juvenile court. [1977 1st ex.s. c 291 § 2.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.04.021 Juvenile court—How constituted—Cases tried without jury. (Effective July 1, 1978.) (1)
The juvenile court shall be a division of the superior

court. In judicial districts having more than one judge of the superior court, the judges of such court shall annually, in the month of January, assign one or more of their number to the juvenile court division. In any judicial district having a court commissioner, the court commissioner shall have the power, authority, and jurisdiction, concurrent with a juvenile court judge, to hear all cases under this chapter and to enter judgment and make orders with the same power, force, and effect as any judge of the juvenile court, subject to motion or demand by any party within ten days from the entry of the order or judgment by the court commissioner as provided in RCW 2.24.050.

(2) Cases in the juvenile court shall be tried without a jury. [1977 1st ex.s. c 291 § 3.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.04.030 Juvenile court—Exclusive original jurisdiction. (Effective July 1, 1978.) The juvenile courts in the several counties of this state, shall have exclusive original jurisdiction over all proceedings:

(1) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(2) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

(3) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210;

(4) To approve or disapprove alternative residential placement as provided in RCW 13.32.020 through 13.32.050;

(5) Relating to children alleged to be or found to be in need of involuntary civil commitment as provided in chapter 72.23 RCW;

(6) Relating to youth alleged or found to be a juvenile offender as provided in RCW 13.40.020 through 13.40.230, unless:

(a) The juvenile court transfers jurisdiction to adult criminal court; or

(b) The period of limitations of actions applicable to adult prosecution for the offense alleged in the petition has expired; or

(c) The alleged offense involves a violation of the traffic laws, which is not a misdemeanor, by juveniles over fifteen years of age; and

(7) Under the interstate compact on juveniles as provided in chapter 13.24 RCW. [1977 1st ex.s. c 291 § 4; 1937 c 65 § 1; 1929 c 176 § 1; 1921 c 135 § 1; 1913 c 160 § 2; RRS § 1987–2.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

Court commissioners: Chapter 2.24 RCW, state Constitution Art. 4 § 23.

Jurisdiction of superior courts: State Constitution Art. 4 § 6 (Amendment 28).

13.04.033 Juvenile court—Appeals, procedure—Priority, when. (Effective July 1, 1978.) Any person aggrieved by a final order of the juvenile court may appeal said order as provided by this section. All

appeals in matters other than those related to commission of a juvenile offense shall be taken in the same manner as in other civil cases. Except as otherwise provided in this title, all appeals in matters related to the commission of a juvenile offense shall be taken in the same manner as criminal cases and the right to collateral relief shall be the same as in criminal cases. The order of the juvenile court shall stand pending the disposition of the appeal: *Provided*, That the juvenile court or the appellate court may upon application stay said order.

If the final order from which an appeal is taken grants the custody of the child to, or withholds it from, any of the parties, or if the child is committed as provided under this chapter, the appeal shall be given priority in hearing. [1977 1st ex.s. c 291 § 5.]

Rules of Court: Rules on Appeal, Part III.

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.04.035 Administrator of juvenile court, probation counselor and detention services—Appointment. (Effective July 1, 1978.) Juvenile court, probation counselor, and detention services shall be administered by the superior court, except that by local court rule and agreement with the legislative authority of the county they may be administered by the legislative authority of the county in the manner prescribed by RCW 13.20.060: *Provided*, That in any class AA county such services shall be administered in accordance with chapter 13.20 RCW. The administrative body shall appoint an administrator of juvenile court, probation counselor, and detention services who shall be responsible for day-to-day administration of such services, and who may also serve in the capacity of a probation counselor. [1977 1st ex.s. c 291 § 6.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005

Prosecuting attorney as party to juvenile court proceedings—Exception, procedure: RCW 13.40.090.

13.04.037 Administrator—Adoption of standards for detention facilities for juveniles by—Revision and inspection. (Effective July 1, 1978.) The administrator shall after consultation with the state planning agency established under Title II of the federal juvenile justice and delinquency prevention act of 1974 (P.L. No. 93–415; 42 U.S.C. 5611 et seq.) following a public hearing, and after approval of the body responsible for administering the juvenile court, and no later than one hundred eighty days after the effective date of this 1977 amendatory act, adopt standards for the regulation and government of detention facilities for juveniles. Such standards may be revised from time to time, according to the procedure outlined in this section. Each detention facility shall keep a copy of such standards available for inspection at all times. Such standards shall be reviewed and the detention facilities shall be inspected annually by the administrator. [1977 1st ex.s. c 291 § 7.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.04.040 Administrator—Appointment of probation counselors and persons in charge of detention facilities by—Powers and duties, compensation. (Effective July 1, 1978.) The administrator shall, in any county or judicial district in the state, appoint or designate one or more persons of good character to serve as probation counselors during the pleasure of the administrator. The probation counselor shall:

(1) Receive and examine referrals to the juvenile court for the purpose of considering the filing of a petition pursuant to RCW 13.32.020, 13.34.040, 13.34.180, and 13.40.070;

(2) Make recommendations to the court regarding the need for continued detention or shelter care of a child unless otherwise provided in this title;

(3) Arrange and supervise diversion agreements as provided in RCW 13.40.080 and ensure that the requirements of such agreements are met except as otherwise provided in this title;

(4) Prepare predisposition studies as required in RCW 13.34.120 and 13.40.130 and be present at the disposition hearing to respond to questions regarding the predisposition study: *Provided*, That such duties shall be performed by the department of social and health services for cases relating to dependency or to the termination of a parent and child relationship in any class A or AA county; and

(5) Supervise court orders of disposition to ensure that all requirements of the order are met.

All probation counselors shall possess all the powers conferred upon sheriffs and police officers to serve process and make arrests of juveniles under their supervision for the violation of any state law or county or city ordinance.

The administrator may, in any county or judicial district in the state, appoint one or more persons who shall have charge of detention rooms or house of detention.

The probation counselors and persons appointed to have charge of detention facilities shall each receive compensation which shall be fixed by the board of county commissioners, or in cases of joint counties, judicial districts of more than one county, or joint judicial districts such sums as shall be agreed upon by the boards of county commissioners of the counties affected, and such persons shall be paid as other county officers are paid.

The administrator is hereby authorized, and to the extent possible is encouraged to, contract with private agencies existing within the community for the provision of services to youthful offenders and youth who have entered into diversion agreements pursuant to RCW 13.40.080. [1977 1st ex.s. c 291 § 8; 1959 c 331 § 9; 1951 c 270 § 1; 1921 c 43 § 1; 1913 c 160 § 3; RRS § 1987-3.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.04.053 Repealed. (Effective July 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

13.04.056 Repealed. (Effective July 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

13.04.060 through 13.04.080 Recodified. (Effective July 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

13.04.091 Recodified. (Effective July 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

13.04.093 Hearings—Presentation of evidence by prosecuting attorney or attorney general, when. (Effective July 1, 1978.) It shall be the duty of the prosecuting attorney or the prosecuting attorney's deputy to present the evidence supporting any petition where the facts are contested, except in petitions to approve or disapprove alternative residential placement: *Provided*, That it shall be the duty of the attorney general or the attorney general's assistant to present the evidence supporting any petition alleging dependency, or any petition seeking the termination of a parent and child relationship, which is filed in a class A or AA county, where the facts are contested: *Provided further*, That the responsibility of the prosecuting attorney for proceedings relating to the commission of a juvenile offense shall be as provided in RCW 13.40.070 and 13.40.090. [1977 1st ex.s. c 291 § 9.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.04.095 Repealed. (Effective July 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

13.04.100 Recodified. (Effective July 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

13.04.105 Recodified. (Effective July 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

13.04.110 Repealed. (Effective July 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

13.04.120 Repealed. (Effective July 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

13.04.140 Repealed. (Effective July 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

13.04.150 Recodified. (Effective July 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

13.04.170 Repealed. (Effective July 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

13.04.190 Repealed. (Effective July 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

13.04.200 Secretary of social and health services may place incorrigible juvenile delinquents over sixteen in reformatory—Duration—Definition. (Effective until July 1, 1978.) The secretary of the department of social and health services may designate the Washington state reformatory for the transfer in institutional placement of incorrigible juvenile delinquents over the age of sixteen years, the custody of such children to remain in the secretary, and such children in no event to remain at the Washington state reformatory beyond the time at which they are eligible for a complete release from the state training school: *Provided*, That the term "incorrigible juvenile delinquent" for the purposes of this section shall mean conduct by a juvenile committed to the department by the juvenile court indicating over the course of a reasonable period of time that the rehabilitative program of the department can be of no further benefit to such juvenile, and that he is in need of closer security. [1977 1st ex.s. c 80 § 16; 1961 c 302 § 12; 1959 c 251 § 2; 1957 c 297 § 4. Formerly RCW 13.08.190, part.]

~~Purpose—Intent—Severability—1977 1st ex.s. c 80:~~ See notes following RCW 4.16.190.

13.04.200 Secretary of social and health services may place incorrigible juvenile delinquents over sixteen in reformatory—Duration—Definition. [1977 1st ex.s. c 80 § 16; 1961 c 302 § 12; 1959 c 251 § 2; 1957 c 297 § 4. Formerly RCW 13.08.190, part.] Repealed by 1977 1st ex.s. c 291 § 81, effective July 1, 1978.

~~Effective date—Severability—1977 1st ex.s. c 291:~~ See notes following RCW 13.04.005.

13.04.210 through 13.04.230 Repealed. (Effective July 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

13.04.250 Repealed. (Effective July 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

13.04.260 Recodified. (Effective July 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

13.04.270 Confidential records—Enumerated. (Effective July 1, 1978.) (1) The following records shall be confidential and shall be released only pursuant to this chapter:

(a) The official juvenile court file: *Provided*, That the official juvenile court file shall be open to public inspection in cases involving the commission of a juvenile offense;

(b) The social file;

(c) The records of public agencies, private agencies, or persons with respect to children committed to their custody; and

(d) All records pertaining to and in any way identifying juveniles subject to dependency or juvenile offender proceedings, such records having been produced or retained by any juvenile justice or care agency which shall include the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, or the department of social and health services and its contracting agencies.

(2) The official juvenile court file for a proceeding shall include the petition or information, motions, memorandums, briefs, findings of the court, court orders, and other reports and papers filed in juvenile court.

(3) The social file is the records and reports of the probation counselor and shall be filed separate from the official juvenile court file.

(4) Each petition or information filed with the court shall include only one child and each petition or information shall be filed under a separate docket number. [1977 1st ex.s. c 291 § 10.]

~~Effective date—Severability—1977 1st ex.s. c 291:~~ See notes following RCW 13.04.005.

13.04.272 Confidential records—Release, when—Central record keeping system. (Effective July 1, 1978.) (1) Where a specific provision of this chapter controls the use of information, then that specific provision governs, and in all other cases release and use of information will be governed by the provisions set forth in this section and RCW 13.04.274.

(2) It shall be the duty of any juvenile justice or care agency providing information to insure the accuracy of that information. To this end:

(a) An agency shall never knowingly record or provide inaccurate information;

(b) An agency shall take steps to insure the security of its records and to prevent tampering therewith; and

(c) An agency shall not supply any record which is not complete, i.e., does not contain information as to all action taken to date with respect to any incident, even if that action has been taken by another agency.

(3) Records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by such other participant or when such other participant is assigned the responsibility of supervising the juvenile. This section shall permit, in accordance with the laws on discovery of evidence applicable in adult criminal cases, counsel for the prosecution and defense and an accused juvenile full access to the records of other juveniles alleged to have committed offenses connected with the offense with which the accused juvenile is charged, and any juvenile witnesses involved in the case. The juvenile court and prosecutor may set up and maintain a central record keeping system which may receive information on all alleged juvenile offenders whether or not their cases are currently pending before the court, except as limited by subsection (2) of this section. The central record keeping system may be computerized and shall have adequate safeguards to protect against improper disclosure of information.

(4) Upon request of a juvenile or such juvenile's parents or attorney, information concerning such juvenile shall be released to the juvenile, or to such juvenile's parents or attorney, for purposes of checking its accuracy.

(5) Information which could not reasonably be expected to identify the youth or the youth's family may be released to the public.

(6) Upon request of the victim of the crime or the victim's immediate family, the identity of an alleged or proven juvenile offender and his or her parent, guardian, or custodian and the circumstances of the alleged or proven crime shall be released to the victim of the crime or the victim's immediate family.

(7) Information which is necessary to the preparation of an accused juvenile's defense or to protect a juvenile's interests in a dependency proceeding shall be released to such juvenile or to such juvenile's parents or attorney.

(8) Information which has not been destroyed pursuant to RCW 13.04.274 shall be released to participants in the adult criminal justice and corrections system including prosecutors, defendants, defense counsel, and probation or parole officers, concerning the juvenile record of an adult criminal defendant or witness in an adult criminal proceeding after a charge has actually been filed in court.

(9) Nothing in this chapter shall be construed as preventing a crime victim or a member of the victim's family from divulging the identity of the juvenile offender or the juvenile's family where necessary in a civil proceeding. [1977 1st ex.s. c 291 § 11.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.04.274 Confidential records—Right to challenge information therein—Order to seal legal and social files and records, procedure for—Grounds to nullify—Order to destroy records, when. (Effective July 1, 1978.) (1) Any person who believes that he or she may be the subject of any juvenile justice or care record keeping shall have the right, in person or through a parent or attorney, to inquire as to whether a record exists and to be shown such record if it exists. If that record is properly in the possession of the agency maintaining it, the subject shall have the right to challenge the information therein and to have it corrected if it is in error. If that record is not properly in the possession of the agency maintaining it, the subject shall have the right to have it destroyed. Any agency maintaining such records shall promulgate administrative procedures to facilitate such inquiries, and the subject of any record shall have the right to enforce the provisions of this section by equitable or legal proceedings in the superior court.

(2) On motion on the part of a person who has been the subject of an information alleging a juvenile offense or the subject of a dependency petition, or on the court's own motion, the court shall vacate its order and findings, if any, and order the sealing of the legal and social files and records of the court and of any other agency in the case if it finds that:

(a) Two years have elapsed since the final discharge of the person from legal custody or since the entry of any other court order not involving custody; and

(b) The person has not entered into a diversion agreement nor has been found to have committed a crime prior to the filing of the motion, and no proceeding is pending seeking such conviction or adjudication. The motion and the order may include the files and records specified in subsections (3) and (4) of this section.

(3) Reasonable notice of the motion shall be given to:

(a) The prosecutor;

(b) Defense counsel of record;

(c) The department of social and health services, if custody of the child has ever been transferred to the department; and

(d) The law enforcement officers, department, and central depository having custody of the files and records if the files and records specified in RCW 13.04.272 are included in the motion.

(4) Upon the entry of the order, the proceedings in the case shall be treated as if they never occurred, and the court and law enforcement officers and departments shall reply and the subject person may reply to any inquiry that juvenile records are confidential.

Inspection of the files and records included in the order may thereafter be permitted by the court only upon motion of the person who is the subject of such records or the prosecuting attorney, and only by those persons named in such motion. However, the court in its discretion may by special order in an individual case permit inspection by or release of information in the records to any clinic, hospital, or agency which has the subject person under care or treatment, or individuals or agencies engaged in research.

(5) Any adjudication of the commission of a crime subsequent to sealing shall have the effect of nullifying the sealing order.

(6) A person who has been the subject of an information alleging a juvenile offense and has met the conditions stipulated in subsection (2)(b) of this section may, five years after reaching the age of majority, file a motion requesting the destruction of all records pertaining to his or her case. If the court grants the motion, copies of the order shall be sent to all offices or agencies that are repositories of such records and all such offices and agencies shall comply with the order.

(7) A person who has been the subject of an information alleging a juvenile offense shall be notified of his or her rights under this section at the time of his or her final discharge. [1977 1st ex.s. c 291 § 12.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.04.276 Confidential records—Expungement to protect due process rights. (Effective July 1, 1978.) Nothing in this chapter shall be construed to prevent the expungement of any juvenile record ordered expunged by a court to preserve the due process rights of its subject. [1977 1st ex.s. c 291 § 13.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.04.278 Records of motor vehicle operation violation forwarded. (Effective July 1, 1978.) Notwithstanding any other provision of this chapter, whenever a child is arrested for a violation of any law, including municipal ordinances, regulating the operation of vehicles on the public highways, a copy of the traffic citation and a record of the action taken by the juvenile court shall be forwarded by the court to the director of licenses in the same manner as provided in RCW 46.20.280. [1977 1st ex.s. c 291 § 14.]

Reviser's note: (1) "RCW 46.20.280" was repealed by 1965 ex.s. c 121 § 46. Duty of courts to forward records of convictions, see RCW 46.20.270.

(2) "department and director of licenses" changed to "department and director of motor vehicles" by 1965 c 156, redesignated "department of licensing" by 1977 1st ex.s. c 334, effective July 1, 1977.

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

Chapter 13.06

PROBATION SERVICES—SPECIAL SUPERVISION PROGRAMS

Sections

13.06.050 Conditions for receiving state funds—Base commitment rates—Annual commitment rate, exclusions from—Amounts payable—Restrictions.

13.06.050 Conditions for receiving state funds—Base commitment rates—Annual commitment rate, exclusions from—Amounts payable—Restrictions. No county shall be entitled to receive any state funds provided by this chapter until its application is approved, and unless and until the minimum standards prescribed by the department of social and health services are complied with and then only on such terms as are set forth hereafter in this section.

(1) A base commitment rate for each county and for the state as a whole shall be calculated by the department of social and health services. The base commitment rate shall be determined by computing the ratio of the number of juveniles committed to state juvenile correctional institutions plus the number of juveniles who have been convicted of felonies and committed to state correctional institutions after a juvenile court has declined jurisdiction of their cases and remanded them for prosecution in the superior courts, to the county population, such ratio to be expressed in a rate per hundred thousand population, for each of the calendar years 1964 through 1968. The average of these rates for a county for the five year period or the average of the last two years of the period, whichever is higher, shall be the base commitment rate, as certified by the secretary: *Provided*, That, a county may elect as its base commitment rate the average of the base commitment rates of all counties in the state over the last two years of the period described above. The county and state population shall be that certified as of April 1st of each year by the office of program planning and fiscal management, such population figures to be provided to the secretary of social and health services not later than June 30th of each year.

(2) An annual commitment rate shall be calculated by the department at the end of each year for each participating county and for the state as a whole, in a like manner as provided in subsection (1). The annual commitment rate shall exclude commitments that fall within the high risk categories as defined by the department.

(3) The amount that may be paid to a county pursuant to this chapter shall be the standard cost of the operation of a special supervision program based upon workload standards established by the department. Payment shall not exceed five thousand dollars per commitment reduction. The "commitment reduction number" is obtained by subtracting (a) the product of the most recent annual commitment rate and population of the county for the same year from (b) the product of the base commitment rate and population of the county for the same year employed in (a).

(4) The secretary will reimburse a county upon presentation and approval of a valid claim pursuant to the provisions of this chapter based on actual performance in reducing the annual commitment rate from its base commitment rate. Whenever a claim made by a county pursuant to this chapter, covering a prior year, is found to be in error, an adjustment may be made on a current claim without the necessity of applying the adjustment to the allocation for the prior year.

(5) In the event a participating county earns in a payment period less than one-half of the sum paid in the previous payment period because of extremely unusual circumstances claimed by the county and verified by the secretary of the department of social and health services, the secretary may pay to the county a sum not to exceed actual program expenditures, provided, however, that in subsequent periods the county will be paid only the amount earned: *Provided*, That *the amendatory provisions of subsection (5) of this act may be applied to payment periods prior to May 20, 1971.

(6) If the amount received by a county in reimbursement of its expenditures in a calendar year is less than the maximum amount computed under subsection (3) above, the difference may be paid to the county as reimbursement of program costs during the next two succeeding years upon receipt of valid claims for reimbursement of program expenses.

(7) Funds received by participating counties under this chapter shall not be used to replace local funds for existing programs for delinquent juveniles or to develop county institutional programs.

(8) Any county averaging less than thirty commitments annually during either the two year or five year period used to determine the base commitment rate as defined in subsection (1) above may:

(a) apply for subsidies under subsection (1); or

(b) as an alternative, elect to receive from the state the salary of one full time additional probation officer and related employee benefits; or

(c) elect to receive from the state the salary and related employee benefits of one full time additional probation officer and in addition, reimbursement for certain supporting services other than capital outlay and equipment whose total will not exceed a maximum limit

established by the secretary of the department of social and health services; or

(d) elect to receive from the state reimbursement for certain supporting services other than capital outlay and equipment whose total cost will not exceed a maximum limit established by the secretary of the department of social and health services.

(9) In the event a county chooses one of the alternative proposals in subsection (8), it will be eligible for reimbursement only so long as the officer and supporting services are wholly used in the performance of probation services to supervision of persons eligible for state commitment and are paid the salary referred to in this section in accordance with a salary schedule adopted by rule of the department and:

(a) if its base commitment rate is below the state average, its annual commitment rate does not exceed the base commitment rate for the entire state; or

(b) if its base commitment rate is above the state average, its annual commitment rate does not in the year exceed by two its own base commitment rate.

(10) Where any county does not have a juvenile probation officer, but obtains such services by agreement with another county or counties, or, where two or more counties mutually provide probation services by agreement for such counties, then under such circumstances the secretary may make the computations and payments under this chapter as though the counties served with probation services were one geographical unit. [1977 1st ex.s. c 307 § 1; 1973 1st ex.s. c 198 § 1; 1971 ex.s. c 165 § 1; 1969 ex.s. c 165 § 5.]

Reviser's note: *(1) "the amendatory provisions of subsection (5) of this act" apparently refers to the changes made in subsection (5) of this section by 1971 ex.s. c 165 § 1.

(2) "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Effective date—1977 1st ex.s. c 307: "This 1977 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, 1977." [1977 1st ex.s. c 307 § 3.] This applies to RCW 13.06.050.

Effective date—1973 1st ex.s. c 198: "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 198 § 3.] This applies to RCW 13.06.050 and 35.82.285.

Chapter 13.30 RUNAWAY YOUTH

(Effective July 1, 1978)

Sections

13.30.010	Short title.
13.30.020	Taking juvenile into limited custody—Limitations.
13.30.030	Release of juvenile taken into limited custody— Placement in licensed residential facility, when.
13.30.040	Immunity from liability for releasing juvenile to other than parent or custodian.

Children taken into custody or receiving certain services not to be delivered to parents who have not been awarded custody—Exception: RCW 26.09.400.

13.30.010 Short title. This chapter shall be known as the "Runaway Youth Act" [1977 1st ex.s. c 291 § 16.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.30.020 Taking juvenile into limited custody—Limitations. A law enforcement officer may take a juvenile into limited custody subject to the limitations of this chapter if (1) a law enforcement agency has been contacted by the parent, guardian, or custodian of the child that their child is absent from home without their consent, or (2) if the officer reasonably believes that a juvenile is in circumstances which constitute a substantial and immediate danger to the juvenile's physical safety. In no event shall limited custody extend more than twelve hours from the time of the juvenile's initial contact with the law enforcement officer. [1977 1st ex.s. c 291 § 17.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.30.030 Release of juvenile taken into limited custody—Placement in licensed residential facility, when. (1) An officer taking a juvenile into limited custody shall inform the juvenile of the reason for such custody and shall, if the juvenile consents, transport the juvenile to his or her home or to a relative or other responsible person, or arrange for such transportation.

(2) The officer so releasing a juvenile from limited custody shall inform the parent, custodian, relative, or other responsible person of the reason for taking the juvenile into limited custody and shall, if he or she believes further services may be needed, inform the juvenile and the person to whom the juvenile is released of the nature and location of appropriate services and shall offer to assist in establishing contact between the family and the service agency.

(3) Where a parent or custodian cannot be reached and release is made to a relative or other responsible person, the officer shall notify the parent or custodian as soon as practicable of the fact and circumstances of the limited custody, the release of the juvenile, and any information given respecting further services.

(4) Where a juvenile is released from limited custody to a person other than a parent or custodian, such person shall reasonably establish that he or she is willing and able to be responsible for the safety of the juvenile.

(5) If the law enforcement officer is unable by all reasonable efforts to contact a parent, custodian, relative, or other responsible person; or if the person contacted lives at an unreasonable distance; or if the juvenile refuses to be taken to his or her home or other appropriate residence; or if the officer is otherwise unable despite all reasonable efforts to make arrangements for the safe release of the juvenile taken into limited custody, the law enforcement officer shall take the juvenile to a designated temporary nonsecure residential facility licensed by the department of social and health services and established pursuant to chapter 74.13 RCW. [1977 1st ex.s. c 291 § 18.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.30.040 Immunity from liability for releasing juvenile to other than parent or custodian. A law enforcement officer acting reasonably and in good faith pursuant to this chapter in releasing a juvenile to a person other than a parent or custodian of such juvenile shall be immune from civil or criminal liability for such action. [1977 1st ex.s. c 291 § 19.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

Chapter 13.32

JUVENILE COURT PROCEDURE FOR FAMILIES IN CONFLICT

(Effective July 1, 1978)

Sections

- 13.32.010 Short title.
- 13.32.020 Alternative residential placement or continuation of—Petition for approval of.
- 13.32.030 Alternative residential placement or continuation of—Court duties upon petition for.
- 13.32.040 Alternative residential placement or continuation of—Court's finding and order at hearing.
- 13.32.050 Alternative residential placement or continuation of—Later review hearing—Scheduled—Notification of—Scope.

Children taken into custody or receiving certain services not to be delivered to parents who have not been awarded custody—Exception: RCW 26.09.400.

13.32.010 Short title. This chapter shall be known as the "Juvenile Court Procedure for Families In Conflict". [1977 1st ex.s. c 291 § 23.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.32.020 Alternative residential placement or continuation of—Petition for approval of. A child or a child's parent or custodian may file with the juvenile court a petition to approve alternative residential placement as provided in RCW 74.13.031(4)(f) as now or hereafter amended. The filing of a petition to approve such placement is not dependent upon the court's having obtained any prior jurisdiction over the child or his or her parent or custodian, and confers upon the court a special jurisdiction to approve or disapprove alternative residential placement or its continuation. [1977 1st ex.s. c 291 § 24.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.32.030 Alternative residential placement or continuation of—Court duties upon petition for. The juvenile court shall promptly appoint legal counsel for the child whether or not the child is the moving party, schedule a hearing date, and notify the child and his or her parent or custodian of the hearing date, the legal consequences of an approval or disapproval of alternative residential placement, the right of both parties to present evidence at the hearing, and the right of the

parent or custodian to be represented by legal counsel at the hearing. [1977 1st ex.s. c 291 § 25.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.32.040 Alternative residential placement or continuation of—Court's finding and order at hearing. The hearing shall be upon the question of the child's placement. Prior to approving an alternative residential placement, the court shall find by a preponderance of the evidence that the reasons for request of alternative residential placement are not capricious and that there is a conflict between the parent and the child that cannot be remedied by counseling, crisis intervention, or continued placement in the parental home.

After making such a finding the court may approve the placement in which the child resides or wishes to reside or the court may place the child in such nonsecure licensed care as is deemed appropriate taking into account the interests of the parents and the best interests of the child. [1977 1st ex.s. c 291 § 26.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.32.050 Alternative residential placement or continuation of—Later review hearing—Scheduled—Notification of—Scope. Upon approving an alternative residential placement pursuant to this section, the court shall schedule the matter on the calendar for review within six months, advise the parties of the date thereof, appoint legal counsel to represent the child at the review hearing, and notify the parties of their rights to present evidence at the review hearing and of the right of the parent or custodian to be represented by legal counsel. At each review hearing, the juvenile court: (1) Shall approve or disapprove the continuation of the alternative residential placement according to the same standards and limitations as governed the initial approval; (2) shall determine that such interim services as may be appropriate have been offered the child and his or her family, pursuant to RCW 74.13.031 as now or hereafter amended; and (3) shall again set the matter on the calendar for further review in six months, notifying the parties as before. [1977 1st ex.s. c 291 § 27.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

Chapter 13.34

JUVENILE COURT ACT IN CASES RELATING TO DEPENDENCY OF A CHILD AND THE TERMINATION OF A PARENT AND CHILD RELATIONSHIP

(Effective July 1, 1978.)

Sections

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Children taken into custody or receiving certain services not to be delivered to parents who have not been awarded custody—Exception: RCW 26.09.400.

13.34.010 Short title. This chapter shall be known as the "Juvenile Court Act in Cases Relating to Dependency of a Child and the Termination of a Parent and Child Relationship". [1977 1st ex.s. c 291 § 29.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.34.020 Legislative declaration of family unit as resource to be nurtured. The legislature declares that the family unit is a fundamental resource of American life which should be nurtured. Toward the continuance of this principle, the legislature declares that the family unit should remain intact in the absence of compelling evidence to the contrary. [1977 1st ex.s. c 291 § 30.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.34.030 Definitions—"Child", "juvenile", "dependent child". For purposes of this chapter:

- (1) "Child" and "juvenile" shall mean any individual under the age of eighteen years;
- (2) "Dependent child" shall mean any child:
 - (a) Who has been abandoned; that is, left by his or her parents, guardian, or other custodian without parental care and support; or
 - (b) Who is abused or neglected as defined in chapter 26.44 RCW; or
 - (c) Who has no parent, guardian, or custodian; or
 - (d) Any child:
 - (i) Who is in conflict with his or her parent, guardian, or custodian;

(ii) Who refuses to remain in any nonsecure residential placement ordered by a court pursuant to RCW 13.32.040;

(iii) Whose conduct evidences a substantial likelihood of degenerating into serious delinquent behavior if not corrected; and

(iv) Who is in need of custodial treatment in a diagnostic and treatment facility. [1977 1st ex.s. c 291 § 31.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

Children taken into custody or receiving certain services not to be delivered to parents who have not been awarded custody—Exception: RCW 26.09.400.

13.34.040 Petition to court to deal with dependent child. Any person may file with the clerk of the superior court a petition showing that there is within the county, or residing within the county, a dependent child and praying that the superior court deal with such child as provided in this chapter: *Provided*, That in counties having paid probation officers, such officers shall, as far as possible, first determine if such petition is reasonably justifiable. Such petition shall be verified and shall contain a statement of facts constituting such dependency, as defined in this chapter, and the names and residence, if known to the petitioner, of the parents, guardian, or custodian of such dependent child. There shall be no fee for filing such petitions. [1977 1st ex.s. c 291 § 32; 1913 c 160 § 5; RRS § 1987-5. Formerly RCW 13.04.060.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.34.050 Court order to take child into custody, when. The juvenile court may enter an order directing a law enforcement officer, probation counselor, or child protective services official to take a child into custody if a petition is filed with the juvenile court alleging that the child is dependent and the court finds reasonable grounds to believe the child is dependent and that the child's health, safety, and welfare will be seriously endangered if not taken into custody. [1977 1st ex.s. c 291 § 33.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.34.060 Placing child in shelter care—Hearings and rights on preliminary or continuing shelter care—Amendments to orders. (1) A child taken into custody pursuant to RCW 13.34.050 or 26.44.050 shall be immediately placed in shelter care. "Shelter care" means temporary physical care in a foster family home or receiving home licensed pursuant to RCW 74.15.030. In no case shall a child who is taken into custody pursuant to RCW 13.34.050 or 26.44.050 be detained in a secure detention facility. No child may be held longer than seventy-two hours, excluding Sundays and holidays, after such child is taken into custody unless a court order has been entered for continued shelter care. The child and his or her parent, guardian, or custodian shall be informed that they have a right to a preliminary shelter care hearing. The court shall hold a preliminary shelter care hearing if one is requested.

(2) The juvenile court counselor assigned to the matter shall advise the parents, guardian, or legal custodian of the time and place of any shelter care hearing, request that they be present, and inform them of their basic rights as provided in RCW 13.34.090.

(3) At the commencement of the shelter care hearing the court shall advise the parties of their basic rights as provided in RCW 13.34.090 and shall appoint counsel pursuant to RCW 13.34.090 if counsel has not been retained by the parent or guardian or if the parent or guardian is indigent, unless the court finds that the right to counsel has been expressly and voluntarily waived.

(4) The court shall take testimony concerning the circumstances for taking the child into custody and the need for shelter care. The court shall give the child and the child's parent or guardian and the parent's or guardian's counsel an opportunity to introduce evidence, to be heard in their own behalf, and to examine witnesses.

(5) In class A and AA counties the department of social and health services (and in all other counties the juvenile court probation counselor) shall submit a recommendation to the court as to the further need for shelter care.

(6) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or custodian or other suitable person able and willing to provide supervision and care for such child unless the court finds there is reasonable cause to believe that:

(a) The child has no parent, guardian, custodian, or other suitable person to provide supervision and care for such child; or

(b) The release of such child would present a serious threat of substantial harm to such child.

If continued shelter care is ordered, the court shall set forth its reasons for continued shelter care.

(7) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(8) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. No child shall be detained for longer than thirty days without an order, signed by the judge, authorizing continued shelter care. [1977 1st ex.s. c 291 § 34.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.34.070 Summons when petition filed—Service procedure—Contempt upon failure to appear. (1) Upon the filing of the petition, the clerk of the court shall issue a summons, one directed to the child, if the child is twelve or more years of age, and another to the parents, guardian, or custodian, and such other persons as appear to the court to be proper or necessary parties to the proceedings, requiring them to appear personally before the court at the time fixed to hear the petition. Where the custodian is summoned, the parent or guardian or both shall also be served with a summons.

(2) A copy of the petition shall be attached to each summons.

(3) The summons shall advise the parties of the right to counsel.

(4) The judge may endorse upon the summons an order directing any parent, guardian, or custodian having the custody or control of the child to bring the child to the hearing.

(5) If it appears from affidavit or sworn statement presented to the judge that there is probable cause for the issuance of a warrant of arrest or that the child needs to be taken into custody pursuant to RCW 13.34.050, the judge may endorse upon the summons an order that an officer serving the summons shall at once take the child into custody and take him to the place of shelter designated by the court.

(6) If a party to be served with a summons can be found within the state, the summons shall be served upon the party personally at least five court days before the fact-finding hearing, or such time as set by the court. If the party is within the state and cannot be personally served, but the party's address is known or can with reasonable diligence be ascertained, the summons may be served upon the party by mailing a copy thereof by certified mail at least ten court days before the hearing, or such time as set by the court. If a party other than the child is without the state but can be found or the address is known, or can with reasonable diligence be ascertained, service of the summons may be made either by delivering a copy thereof to the party personally or by mailing a copy thereof to the party by certified mail at least ten court days before the fact-finding hearing, or such time as set by the court.

(7) Service of summons may be made under the direction of the court by any person twenty-one years of age or older who is not a party to the proceedings or by any law enforcement officer, probation counselor, or department of social and health services social worker.

(8) If the person summoned as herein provided, shall fail without reasonable cause to appear and abide the order of the court, he may be proceeded against as for contempt of court. [1977 1st ex.s. c 291 § 35; 1913 c 160 § 6; RRS § 1987-6. Formerly RCW 13.04.070.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.34.080 Summons when petition filed—Publication of. In a dependency case where it shall appear by the petition or verified statement, that the person standing in the position of natural or legal guardian of the person of any child, is a nonresident of this state, or that the name or place of residence or whereabouts of such person is unknown, as well as in all cases where, after due diligence, the officer has been unable to make service of the summons or notice provided for in RCW 13.34.070, and a copy of said notice has been deposited in the post office, postage prepaid, directed to such person at his last known place of residence, the court may 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. Such notice shall be directed to the parent, parents, or other person claiming the right to the custody of the child, if their names are known, or if unknown, the phrase "To whom it may concern" shall be used and apply to, and be binding upon, any such persons whose names are unknown. The name of the court, the name of the child (or children if of one family), the date of the filing of the petition and the date of hearing and the object of the proceeding in general terms, shall be set forth and the whole shall be subscribed by the clerk. There shall be filed with the clerk an affidavit showing due publication of the notice and the cost of publication shall be paid by the county at not to exceed the rate paid by the county for other legal notices. The publication of notice shall be deemed equivalent to personal service upon all persons, known or unknown, who have been designated as provided in this section. [1977 1st ex.s. c 291 § 36; 1961 c 302 § 4; 1913 c 160 § 7; RRS § 1987-7. Formerly RCW 13.04.080.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.34.090 Inherent rights under chapter proceedings. Any party has a right to be represented by an attorney of his or her own choosing in all proceedings under this chapter, to introduce evidence, to be heard in his or her own behalf, to examine witnesses, to receive a decision based solely on the evidence adduced at the hearing, and to an unbiased fact-finder.

At all stages of a proceeding in which a child is alleged to be dependent pursuant to RCW 13.34.030(2) (a), (b), or (c), the child's parent or guardian shall have the right to be represented by counsel, and if indigent, to have counsel appointed for him or her by the court.

A child alleged to be dependent pursuant to RCW 13.34.030(2)(d) shall have the right to appointed counsel. [1977 1st ex.s. c 291 § 37.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.34.100 Appointment of guardian ad litem—Limitation. The court, at any stage of a proceeding under this chapter, may appoint a guardian ad litem for a child who is a party to the proceedings. A party to the proceeding or the party's employee or representative shall not be so appointed. Such guardian ad litem shall receive all notice contemplated for a parent in all proceedings under this chapter. [1977 1st ex.s. c 291 § 38.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.34.110 Hearings, fact-finding and disposition—Time and place, notice of—Not generally public—Notes and records. The court shall hold a fact-finding hearing on the petition and, unless the court dismisses the petition, shall make written findings of fact, stating the reasons therefor, and after it has announced its findings of fact shall hold a hearing to consider disposition of the case immediately following the fact-finding hearing or at a continued hearing within fourteen days. No social file or social study shall be considered by the court in connection with the fact-

finding hearing or prior to factual determination. Notice of the time and place of the continued hearing may be given in open court. If notice in open court is not given to a party, that party shall be notified by mail of the time and place of any continued hearing.

All hearings may be conducted at any time or place within the limits of the county, and such cases shall not be heard in conjunction with other business of any other division of the superior court. The general public shall be excluded and only such persons shall be admitted who are found by the judge to have a direct interest in the case or in the work of the court.

Stenographic notes or any device which accurately records the proceedings may be required as provided in other civil cases pursuant to RCW 2.32.200. [1977 1st ex.s. c 291 § 39; 1961 c 302 § 5. Prior: 1913 c 160 § 10, part; RCW 13.04.090, part. Formerly RCW 13.04.091.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.34.120 Social study and predisposition study to be utilized at disposition hearing—Contents. (1) To aid the court in its decision on disposition, a social study, consisting of a written evaluation of matters relevant to the disposition of the case, shall be made. The study shall include all social records and shall be made available to the court. The court shall consider the social file and social study at the disposition hearing in addition to evidence produced at the fact-finding hearing.

(2) In addition to the requirements set forth in subsection (1) of this section, a predisposition study to the court in cases of dependency alleged pursuant to RCW 13.34.030(2)(b) shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific programs, for both the parents and child, that are needed in order to prevent further harm to the child; the reasons why such programs are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs which have been considered and rejected; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal. This section should include an exploration of the nature of the parent-child attachment and the meaning of separation and loss to both the parents and the child;

(e) A description of the steps that will be taken to minimize harm to the child that may result if separation occurs; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary. [1977 1st ex.s. c 291 § 40.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.34.130 Order of disposition for certain dependent children, alternatives—Later review hearing—Petition seeking termination of parental rights or parent-child relationship. If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030(2) (a), (b), or (c); after consideration of the predisposition report prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In selecting a program, the court should choose those services that least interfere with family autonomy, provided that the services are adequate to protect the child.

(b) Order that the child be placed in foster care. Such an order may be made only if:

(i) There is no parent or guardian available to care for such child; or

(ii) The child is unwilling to reside in the custody of the child's parent or guardian; or

(iii) The parent or guardian is not willing to take custody of the child; or

(iv) A manifest danger would exist that the child will suffer further abuse or neglect if the child is not removed from the home.

(2) Whenever a child is ordered removed from the child's home, the agency charged with his or her care shall provide the court with a specific plan as to where the child will be placed, what steps will be taken to return the child home, and what actions the agency will take to maintain parent-child ties.

(a) The agency plan shall specify what services the parents will receive in order to enable them to resume custody and what actions the parents must take in order to resume custody.

(b) The agency shall be required to encourage the maximum parent-child contact possible, including regular visitation and participation by the parents in the care of the child while the child is in placement.

(c) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(d) The agency charged with supervising a child in placement shall be responsible for assuming that all services are provided. It shall report to the court if it is unable to provide such services.

(3) The status of all children found to be dependent shall be reviewed by the court at least every six months at a hearing in which it shall be determined whether court supervision should continue.

(a) A child shall be returned home at the review hearing unless the court finds that a reason for removal as set forth in this section still exists. When a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) If the child is not returned home, the court shall establish in writing:

(i) What services have been provided to or offered to the parents to facilitate reunion;

(ii) The extent to which the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(iii) Whether the agency is satisfied with the cooperation given to it by the parents;

(iv) Whether additional services are needed to facilitate the return of the child to the child's parents; if so, the court shall order such services; and

(v) When return of the child can be expected.

(c) If a child is not returned to the child's home, at such review hearing the court shall advise the parents that a petition to seek termination of parental rights may be ordered at the next review hearing.

(d) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed. [1977 1st ex.s. c 291 § 41.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.34.140 Order of disposition for certain dependent children, alternatives—Placement in facilities. If after a fact-finding hearing it has been proven beyond a reasonable doubt that a child is dependent within the meaning of RCW 13.34.030(2)(d), and after consideration of the predisposition report and after a disposition hearing, the court may order one of the following dispositions of the child:

(a) Placement of the child in an alternative nonsecure residential facility pursuant to RCW 13.32.040;

(b) Commitment to the department of social and health services for placement in a custodial diagnostic and treatment facility for not more than thirty days only if other less restrictive alternatives have failed, if such a treatment facility is available, and if the diagnosis and treatment is reasonably expected to prevent degeneration of the child's conduct into serious delinquent behavior: *Provided*, That such housing and treatment shall be entirely separate from that of youth who have been found guilty of committing a felony or misdemeanor. [1977 1st ex.s. c 291 § 42.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.34.150 Modification of orders. Any order made by the court in the case of a dependent child may at any time be changed, modified or set aside, as to the judge may seem meet and proper. [1977 1st ex.s. c 291 § 43; 1913 c 160 § 15; RRS § 1987-15. Formerly RCW 13.04.150.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.34.160 Order of financial support for dependent child—Exception. In any case in which the court shall find the child dependent, it may in the same or subsequent proceeding upon the parent or parents, guardian, or other person having custody of said child, being duly summoned or voluntarily appearing, proceed to inquire into the ability of such persons or person to support the child or contribute to its support, and if the court shall find such person or persons able to support the child or contribute thereto, the court may enter such order or decree as shall be according to equity in the premises, and may enforce the same by execution, or in any way in which a court of equity may enforce its decrees: *Provided*, That no support payments shall be required of a parent who, throughout a dependence proceeding pursuant to RCW 13.34.030(2)(d), has continuously sought reconciliation with, and the return of, his or her child, unless such parent has been found to have abused or neglected such children. [1977 1st ex.s. c 291 § 44; 1969 ex.s. c 138 § 1; 1961 c 302 § 7; 1913 c 160 § 8; RRS § 1987-8. Formerly RCW 13.04.100.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.34.170 Judgment for financial support. In any case in which an order or decree of the juvenile court requiring a parent or parents, guardian, or other person having custody of a child to pay for shelter care and/or support of such child is not complied with, the court may, upon such person or persons being duly summoned or voluntarily appearing, proceed to inquire into the amount due upon said order or decree and enter judgment for such amount against the defaulting party or parties, and such judgment shall be docketed as are other judgments for the payment of money.

In such judgments, the county in which the same are entered shall be denominated the judgment creditor, or the state may be the judgment creditor where the child is in the custody of a state agency and said judgments may be enforced by the prosecuting attorney of such county, or the attorney general where the state is the judgment creditor and any moneys recovered thereon shall be paid into the registry of the juvenile court and shall be disbursed to such person, persons, agency, or governmental department as the court shall find to be entitled thereto.

Such judgments shall remain as valid and enforceable judgments for a period of six years subsequent to the entry thereof. [1977 1st ex.s. c 291 § 45; 1961 c 302 § 8; 1955 c 188 § 1. Formerly RCW 13.04.105.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

Financial responsibility for costs of detention: RCW 13.16.085.

13.34.180 Order terminating parent and child relationship—Petition for—Filing—Allegations. A petition seeking termination of a parent and child relationship may be filed in juvenile court. Such petition shall conform to the requirements of RCW 13.34.040 as now or hereafter amended and shall allege:

(1) That the child has been removed from the custody of the parent for a period of at least six months pursuant

to a finding of dependency under RCW 13.34.030(2) (a) or (b); and

(2) That the conditions which led to the removal still persist; and

(3) That there is little likelihood that those conditions will be remedied so that the child can be returned to the parent in the near future; and

(4) That continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home; and

(5) That, if the finding of dependency has been pursuant to RCW 13.34.030(2)(b), necessary services have been provided or offered to the parent to facilitate a reunion; and

(6) That the parent has substantially failed to accept such services; and

(7) That if the parent is subject to an order of disposition pursuant to the finding of dependency, the parent has substantially failed to comply with the order. [1977 1st ex.s. c 291 § 46.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.34.190 Order terminating parent and child relationship—Hearings—Granting of, when. After hearings pursuant to RCW 13.34.110, the court may enter an order terminating all parental rights to a child if the court finds that:

(1) The allegations contained in the petition as provided in RCW 13.34.180 are established by clear, cogent, and convincing evidence; and

(2) Such an order is in the best interests of the child. [1977 1st ex.s. c 291 § 47.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.34.200 Order terminating parent and child relationship—Rights of parties when granted. (1) Upon the termination of parental rights pursuant to RCW 13.34.180, all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, visitation, or support existing between the child and parent shall be severed and terminated and the parent shall have no standing to appear at any further legal proceedings concerning the child: *Provided*, That any support obligation existing prior to the effective date of the order terminating parental rights shall not be severed or terminated. The rights of one parent may be terminated without affecting the rights of the other parent and the order shall so state.

(2) An order terminating the parent and child relationship shall not disentitle a child to any benefit due the child from any third person, agency, state, or the United States, nor shall any action under this chapter be deemed to affect any rights and benefits that a native American child derives from the child's descent from a member of a federally recognized Indian tribe. [1977 1st ex.s. c 291 § 48.]

Reviser's note: Termination of parental rights would appear pursuant to RCW 13.34.190; see above in this chapter.

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.34.210 Order terminating parent and child relationship—Custody where there remains no parent having parental rights. If, upon entering an order terminating the parental rights of a parent, there remains no parent having parental rights, the court shall commit the child to the custody of the department of social and health services or to a licensed child-placing agency willing to accept custody for the purpose of placing the child for adoption, or in the absence thereof in a licensed foster home, or take other suitable measures for the care and welfare of the child. The custodian shall have authority to consent to the adoption of the child, the marriage of the child, the enlistment of the child in the armed forces of the United States, necessary surgical and other medical treatment for the child, and to consent to such other matters as might normally be required of the parent of the child.

If a child has not been adopted within two years after the date of the order and a general guardian of the child has not been appointed by the court, the child shall be returned to the court for entry of further orders for his or her care, custody, and control. [1977 1st ex.s. c 291 § 49.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

- 13.40.140 Youths entitled to usual judicial rights—Notice of—Open court—Privilege against self-incrimination—Waiver of rights, when. (Effective July 1, 1978.)
- 13.40.150 Disposition hearing—Scope—Factors to be considered prior to entry of dispositional order. (Effective July 1, 1978.)
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Chapter 13.40

JUVENILE JUSTICE ACT OF 1977

Sections

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Appropriation—1977 1st ex.s. c 291: "(1) There is appropriated for the period July 1, 1978, to June 30, 1979, from the general fund nine hundred eighty-three thousand six hundred dollars to be allocated to counties for the cost of operating diversion units as required by this chapter.

(2) The secretary shall administer the funds and shall promulgate, pursuant to chapter 34.04 RCW, rules establishing a planning process and standards which meet the intent of this chapter. The secretary shall also monitor and evaluate, against established standards, all programs and services funded by this appropriation.

(3) The total sum shall be allocated by the secretary to the counties. Diversion units funded by this section shall be administered and operated separately from the court: *Provided*, That counties of classes other than AA and A may request for an exemption from this requirement. The secretary may grant such exemption if it is clearly demonstrated that resources do not exist nor can be established in such county to operate diversion units separately from the court.

(4) In meeting the requirements of this chapter, there shall be a maintenance of effort whereby counties shall exhaust existing resources prior to the utilization of funds appropriated by this section.

(5) It is the intent of the legislature that these funds shall be the maximum amount necessary to meet the requirement of this chapter for the stated period. Courts shall be required to provide diversion programs and services to the extent made possible by available sources. In addressing diverted youths, a resource priority continuum shall be developed whereby the highest priority in resource allocation shall be given to diverted youths who have inflicted bodily harm while the lowest priority shall be given to diverting youths who have committed victimless crimes or minor property offenses." [1977 1st ex.s. c 291 § 79.] Section 79, chapter 291, Laws of 1977 1st ex.s. follows sections 55 through 78 of said act, codified as chapter 13.40 RCW, together with the recodification of RCW 13.04.260 as RCW 13.40.300; use of "this chapter" above thus appears to have reference to said chapter 13.40 RCW.

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.010 Short title—Legislative intent—Chapter purpose. (Effective July 1, 1978.) (1) This chapter shall be known and cited as the Juvenile Justice Act of 1977.

(2) It is the intent of the legislature that a system capable of having primary responsibility for, being accountable for, and responding to the needs of youthful offenders, as defined by this chapter, be established. It is the further intent of the legislature that youth, in turn, be held accountable for their offenses and that both communities and the juvenile courts carry out their functions consistent with this intent. To effectuate these policies, it shall be the purpose of this chapter to:

- (a) Protect the citizenry from criminal behavior;
- (b) Provide for determining whether accused juveniles have committed offenses as defined by this chapter;
- (c) Make the juvenile offender accountable for his or her criminal behavior;
- (d) Provide for punishment commensurate with the age, crime, and criminal history of the juvenile offender;
- (e) Provide due process for juveniles alleged to have committed an offense;
- (f) Provide necessary treatment, supervision, and custody for juvenile offenders;
- (g) Provide for the handling of juvenile offenders by communities whenever consistent with public safety;
- (h) Provide for restitution to victims of crime;
- (i) Develop effective standards and goals for the operation, funding, and evaluation of all components of the juvenile justice system and related services at the state and local levels; and
- (j) Provide for a clear policy to determine what types of offenders shall receive punishment, treatment, or both, and to determine the jurisdictional limitations of the courts, institutions, and community services. [1977 1st ex.s. c 291 § 55.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.020 Definitions. (Effective July 1, 1978.) For the purposes of this chapter:

(1) "Serious offender" means a person fifteen years of age or older who has committed an offense which if committed by an adult would be:

- (a) A class A felony, or an attempt to commit a class A felony;
- (b) Manslaughter in the first degree, rape in the first degree, or rape in the second degree; or
- (c) Assault in the second degree, extortion in the first degree, indecent liberties, kidnaping in the second degree, robbery in the second degree, burglary in the second degree, statutory rape in the first degree, or statutory rape in the second degree, where such offenses include the infliction of grievous bodily harm upon another or where during the commission of or immediate withdrawal from such an offense the perpetrator uses a deadly weapon or firearm as defined in RCW 9A.04.110;

(2) "Community service" means compulsory service, without compensation, performed by the offender as punishment for committing an offense;

(3) "Community supervision" means an order of disposition by the court of an adjudicated youth for a period of time not to exceed one year. Such an order may include one or more of the following:

- (a) A fine, not to exceed one hundred dollars;

(b) Community service not to exceed one hundred fifty hours of service;

(c) Attendance of information classes;

(d) Counseling; or

(e) Such other services to the extent funds are available for such services, conditions, or limitations as the court may require which may not include partial confinement or confinement;

(4) "Confinement" means any commitment to a facility operated by or pursuant to a contract with the state, or by or pursuant to a contract with any county;

(5) "Court", when used without further qualification, means the juvenile department of the superior court;

(6) "Criminal history" shall include all criminal complaints against the respondent where:

(a) The allegations were found correct by a juvenile court. In any judgment where a respondent is convicted of two or more charges arising out of the same course of conduct, where one charge is included within the other, then only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history;

(7) "Department" means the department of social and health services;

(8) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender or any other person or entity with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.04.040 or any person or entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter;

(9) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(10) "Juvenile", "youth", and "child" shall mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court, or who is over the age of eighteen years but remaining under the jurisdiction of the court as provided in RCW 13.40.300.

(11) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense;

(12) "Manifest injustice" means a disposition that would impose an excessive penalty on the juvenile or a clear danger to society in light of the purposes of this chapter;

(13) "Minor or first offender" means a person sixteen years of age or younger who has committed an offense which if committed by an adult would be a class C felony, a gross misdemeanor, or a misdemeanor, and whose prior criminal history, if any, does not include any class A or B felony, more than two class C felonies, or more than one class C felony plus any series of misdemeanors and/or gross misdemeanors totalling three or more, or any series of misdemeanors and/or gross misdemeanors

totalling four or more; or who has committed an offense which if committed by an adult would be a class B felony (except for any felony which is listed in subsections (1)(a), (b), or (c) of this section) and who has no prior criminal history;

(14) "Offense" means an act designated a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

(15) "Partial confinement" means confinement in a facility operated by or pursuant to a contract with the state of Washington or any city or county for a portion of each day or for a certain number of days each week with the balance of the days of the week spent under community supervision;

(16) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

(17) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, and lost wages resulting from physical injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

(18) "Secretary" means the secretary of the department of social and health services;

(19) "Services" mean services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter; and

(20) "Shelter care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care. [1977 1st ex.s. c 291 § 56.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.030 Disposition standards for offenses—Establishment, procedure—Scope—Legislative review—Limitations. (1) The secretary shall propose to the legislature no later than November 1st of each even-numbered year disposition standards for all offenses. The standards shall establish, in accordance with the purposes of this chapter, ranges which may include terms of confinement and/or partial confinement and/or community supervision established on the basis of a youth's age, the instant offense, and the history and seriousness of previous offenses, but in no case shall the period of confinement and supervision exceed that to which an adult may be subjected for the same offense(s). Standards proposed for offenders listed in RCW 13.40.020(1) shall include a range of confinement which shall not be less than thirty days. No standard range may include a period of confinement which includes both more than thirty, and thirty or less, days. Disposition standards proposed by the department shall

provide that in all cases where a youth is sentenced to a term of confinement in excess of thirty days the department may impose an additional period of parole not to exceed eighteen months. Standards of confinement which may be proposed shall relate only to the length of the proposed terms and not to the nature of the security to be imposed. The secretary shall also submit guidelines pertaining to the nature of the security to be imposed on youth placed in his or her custody based on the age, offense(s), and criminal history of the juvenile offender. Such guidelines shall be submitted to the legislature for its review at the same time the department proposes its disposition standards.

(2) The legislature may adopt the proposed standards or refer the proposed standards to the secretary for modification. If the legislature fails to adopt or refer the proposed standards to the secretary by February 15th of the following year, the proposed standards shall take effect without legislative approval on July 1st of that year.

(3) If the legislature refers the proposed standards to the secretary for modification on or before February 15th, the secretary shall resubmit the proposed modifications to the legislature no later than March 1st. The legislature may adopt or modify the resubmitted proposed standards. If the legislature fails to adopt or modify the resubmitted proposed standards by April 1st, the resubmitted proposed standards shall take effect without legislative approval on July 1st of that year.

(4) Notwithstanding any other provision of this section, the secretary shall propose standards and submit guidelines to the legislature no later than November 1, 1977. The legislature shall consider the proposed standards and submitted guidelines during the following year in the manner prescribed by subsections (2) and (3) of this section. Such standards shall be in effect for the period July 1, 1978, to June 30, 1979.

(5) Any term of confinement in excess of thirty days shall be served at a facility operated by or pursuant to a contract with the state of Washington.

(6) In developing and promulgating the permissible ranges of confinement under this section the secretary shall be subject to the following limitations:

(a) Where the maximum term in the range is ninety days or less, the minimum term in the range shall be no less than fifty percent of the maximum term in the range;

(b) Where the maximum term in the range is greater than ninety days but not greater than one year, the minimum term in the range shall be no less than seventy-five percent of the maximum term in the range; and

(c) Where the maximum term in the range is more than one year, the minimum term in the range shall be no less than eighty percent of the maximum term in the range.

(7) In developing and promulgating the permissible ranges of partial confinement under this section, the secretary shall be subject to the following limitations:

(a) Where the maximum term in the range is ninety days or less, the minimum term in the range shall be no less than fifty percent of the maximum term in the range; and

(b) Where the maximum term in the range is greater than ninety days but not greater than one year, the minimum term in the range shall be no less than seventy-five percent of the maximum term in the range. [1977 1st ex.s. c 291 § 57.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.040 Taking youth into custody, grounds—Detention of, grounds—Release on bond, conditions—Bail jumping. (Effective July 1, 1978.) (1) A youth may be taken into custody:

(a) Pursuant to a court order if a complaint is filed with the court alleging, and the court finds probable cause to believe, that the youth has committed an offense or has violated terms of community supervision;

(b) Without a court order, by a law enforcement officer if grounds exist for the arrest of an adult in identical circumstances. Admission to, and continued custody in, a court detention facility shall be governed by subsection (2) of this section;

(c) Pursuant to a court order that the youth be held as a material witness; or

(d) Where the secretary or the secretary's designee has suspended the parole of a juvenile offender.

(2) A youth shall not be held in detention unless:

(a) The youth has been taken into custody and referred to the court for allegedly committing an offense or when the youth has allegedly failed, or has been found to have failed, to meet the terms of his or her community supervision, and that the youth's past conduct or statements give reason to believe that:

(i) The youth will likely fail to appear for further proceedings; or

(ii) Detention is required to protect a youth who is dangerous to himself or herself;

(b) The court has ordered detention as a material witness;

(c) The youth is a fugitive from justice;

(d) The secretary or the secretary's designee has suspended the early release of a juvenile offender;

(e) There is clear and convincing evidence that the youth is dangerous to others; or

(f) The youth will seek to intimidate witnesses or otherwise unlawfully interfere with the administration of justice.

(3) Upon a finding that members of the community have threatened the health of a youth taken into custody, at the youth's request the court may order continued detention pending further order of the court.

(4) A youth detained under this section may be released upon posting bond set by the court. A court authorizing such a release shall issue an order containing a statement of conditions imposed upon the youth and shall set the date of his or her next court appearance. The court shall advise the youth of any conditions specified in the order and may at any time amend such an order in order to impose additional or different conditions of release upon the youth or to return the youth to custody for failing to conform to the conditions imposed. Failure to appear on the date scheduled by the court

pursuant to this section shall constitute the crime of bail jumping. [1977 1st ex.s. c 291 § 58.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.050 Detention, procedure when—Hearing, notice of, scope—Conditions to be imposed if continued detention unnecessary. (Effective July 1, 1978.) (1) When a youth taken into custody is held in detention:

(a) An information shall be filed within seventy-two hours, Saturdays, Sundays, and holidays excluded, or the youth shall be released; and

(b) A detention hearing shall be held within seventy-two hours, Saturdays, Sundays, and holidays excluded, from the time of filing the information, to determine whether continued detention is necessary under RCW 13.40.040.

(2) Written notice of the detention hearing, stating the time, place, and purpose of the hearing, and stating the right to counsel, shall be given to the parent, guardian, or custodian if such person can be found and shall also be given to the youth if over twelve years of age.

(3) At the commencement of the detention hearing, the court shall advise the parties of their rights under this chapter and shall appoint counsel as specified in this chapter.

(4) The court shall, based upon the allegations in the information, determine whether the case is properly before it or whether the case should be treated as a diversion case under RCW 13.40.080. If the case is not properly before the court the juvenile shall be ordered released.

(5) Notwithstanding a determination that the case is properly before the court and that probable cause exists, a child shall at the detention hearing be ordered released on the child's personal recognizance pending further hearing unless the court finds detention is necessary under RCW 13.40.040.

(6) If detention is not necessary under RCW 13.40.040 the court shall impose the most appropriate of the following conditions or, if necessary, any combination of the following conditions:

(a) Place the child in the custody of a designated person agreeing to supervise such child;

(b) Place restrictions on the travel of the child during the period of release;

(c) Require the child to report regularly to and remain under the supervision of the juvenile court;

(d) Impose any condition other than detention deemed reasonably necessary to assure appearance as required; or

(e) Require that the child return to detention during specified hours. [1977 1st ex.s. c 291 § 59.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.060 Jurisdiction of proceedings—Transfer of records, when—Change in venue, grounds. (Effective July 1, 1978.) (1) Proceedings under this chapter shall be commenced in the county where the child resides. However, proceedings may be commenced in the county where an element of the alleged criminal offense

occurred if so requested by the child or by the prosecuting attorney of the county where the incident occurred.

(2) If the hearing takes place in the county where an element of the alleged criminal offense occurred, the case and copies of all legal and social documents pertaining thereto shall be transferred to the county where the child resides for a disposition hearing. All costs and arrangements for care and transportation of the child in custody shall be the responsibility of the receiving county as of the date of the transfer, unless the counties otherwise agree.

(3) The court upon motion of any party or upon its own motion may, at any time, transfer a proceeding to another juvenile court when:

(a) There is reason to believe that an impartial proceeding cannot be held in the county in which the proceeding was begun; or

(b) It appears that venue is incorrect under this section. [1977 1st ex.s. c 291 § 60.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.070 Complaints alleging offenses—Screening of, scope—Filing information, when—Notification of parent or guardian—Probation counselor may act for prosecutor, when. (Effective July 1, 1978.) (1) Complaints referred to the court alleging the commission of an offense shall be referred directly to the prosecutor. The prosecutor, upon receipt of a complaint, shall screen the complaint for legal sufficiency. The purpose of such screening shall be to determine whether:

(a) The alleged facts bring the case within the jurisdiction of the court; and

(b) On a basis of available evidence there is probable cause to believe that the youth did commit the offense.

(2) An information shall be a plain, concise, and definite written statement of the essential facts constituting the offense charged. It shall be signed by the prosecuting attorney and conform to chapter 10.37 RCW.

(3) Where a case is legally sufficient, the prosecutor shall file an information with the juvenile court if the alleged offender is one or more of the following:

(a) An alleged offender accused of a class A felony, an attempt to commit a class A felony, a class B felony, an attempt to commit a class B felony, assault in the third degree, rape in the third degree, or any other offense listed in RCW 13.40.020(1) (b) or (c); or

(b) An alleged offender with a criminal history of at least a class A or class B felony, or two class C felony offenses, or at least one class C felony offense and at least one misdemeanor or gross misdemeanor, or at least two gross misdemeanors, or at least one gross misdemeanor and two misdemeanors, or at least three misdemeanors; or

(c) An alleged offender accused of violating his or her diversion agreement or who wishes to be prosecuted rather than enter into a diversion agreement or who has been referred by the diversion unit for prosecution: *Provided*, That if the prosecutor elects not to file a charge for which there is probable cause, he shall maintain a record, for one year, of such election and the reasons therefor.

(4) If it appears that there is probable cause to believe that an offense has been committed by a youth, the prosecutor may file an information with the juvenile court if the alleged offender is an alleged offender accused of a class C felony.

(5) Whenever the alleged offender is an alleged offender listed in subsection (3) of this section, the prosecutor may file an information on any other criminal complaint regardless of whether or not the other offense is listed in subsection (3)(a) of this section. In lieu of filing an information, the prosecutor may file a motion to modify or revoke community supervision if a criminal complaint alleges a violation of a condition of community supervision.

(6) If an alleged offender does not fall within subsection (3) or (4) of this section, the prosecutor shall refer the complaint to the diversionary unit for the formation of a diversion agreement pursuant to RCW 13.40.080.

(7) Whenever a juvenile is placed in custody or, where not placed in custody, referred to a diversionary interview, the parent or legal guardian of the juvenile shall be notified as soon as possible concerning the allegation made against the juvenile and the current status of the juvenile.

(8) The responsibilities of the prosecutor under subsections (1) through (7) of this section may be performed by a juvenile court probation counselor for any complaint referred to the court alleging the commission of an offense which would not be a felony if committed by an adult, if the prosecutor has given sufficient written notice to the juvenile court that the prosecutor will not review such complaints. [1977 1st ex.s. c 291 § 61.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.080 Diversion agreement—Defined—Scope—Limitations on—Divertee's rights—Diversionary unit's powers and duties. (Effective July 1, 1978.) (1) A diversion agreement shall be a contract between a youth accused of an offense and a diversionary unit whereby the youth agrees to fulfill certain conditions in lieu of prosecution. Such agreements may be entered into only after the prosecutor has determined that probable cause exists to believe that a crime has been committed and that the juvenile committed it.

(2) A diversion agreement may include:

(a) Periods of community service not to exceed one hundred fifty hours, but if the youth is attending school, no community service shall be required during normal school hours;

(b) Restitution limited to the amount of actual loss incurred by the victim, and the youth shall be required to make restitution to the victim unless the youth does not have the means and could not acquire the means to do so;

(c) In assessing periods of community service to be performed and restitution to be paid by a youth who has entered into a diversion agreement, the court officer to whom this task is assigned shall to the extent possible involve members of the community. Such members of the community shall meet with the youth and advise the

court officer as to the terms of the diversion agreement and shall supervise the youth in carrying out its terms;

(d) A diversion agreement shall not exceed a period of six months for a misdemeanor or one year for a felony. Any restitution assessed during its term shall not exceed an amount which the youth could be reasonably expected to pay during this period. If additional time is necessary for the youth to complete restitution to the victim, the time period limitations of this subsection may be extended by an additional six months; and

(e) An informational, educational, or counseling interview may be required at a community agency.

(3) The youth shall retain the right to be referred to the court at any time prior to the signing of the diversion agreement.

(4) Divertees and potential divertees shall be afforded due process in all contacts with a diversionary unit regardless of whether said youths are accepted for diversion or whether the diversion program is successfully completed. Such due process shall include, but not be limited to, the following:

(a) A written diversion agreement shall be executed stating all conditions in clearly understandable language;

(b) Violation of the terms of the agreement shall be the only grounds for termination;

(c) No youth shall be terminated from a diversion program without being given a court hearing, which hearing shall be preceded by:

(i) Written notice of alleged violations of the conditions of the diversion program; and

(ii) Disclosure of all evidence to be offered against the youth;

(d) The hearing shall include:

(i) Opportunity to be heard in person and to present evidence;

(ii) The right to confront and cross-examine all adverse witnesses;

(iii) A written statement by the court as to the evidence relied on and the reasons for termination, should that be the decision; and

(iv) Demonstration by evidence that the diverted youth has substantially violated the terms of his or her diversion agreement.

(5) The diversion unit shall be responsible for advising a youth of his or her rights as provided in this chapter.

(6) The right to counsel shall inure prior to the initial interview for purposes of advising the youth as to whether he or she desires to participate in the diversion process or to appear in the juvenile court. The youth may be represented by counsel at any critical stage of the diversion process, including intake interviews and termination hearings. The youth shall be fully advised at the intake of his or her right to an attorney and of the relevant services an attorney can provide. For the purpose of this section, intake interviews shall mean all interviews regarding the diversion agreement process.

The youth shall be advised that a diversion agreement shall constitute a part of the youth's criminal history as defined by RCW 13.40.020(6). A signed acknowledgment of such advisement shall be obtained from the youth, and the document shall be maintained by the diversionary unit together with the diversion agreement,

and a copy of both documents shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language.

(7) When a youth enters into a diversion agreement, the juvenile court may receive only the following information for dispositional purposes:

(a) The fact that a charge or charges were made;

(b) The fact that a diversion agreement was entered into;

(c) The youth's obligations under such agreement;

(d) Whether the alleged offender performed his or her obligations under such agreement; and

(e) The facts of the alleged offense.

(8) A diversionary unit may refuse to enter into a diversion agreement with a youth. It shall immediately refer such youth to the court for action and shall forward to the court the criminal complaint and a detailed statement of its reasons for refusing to enter into a diversion agreement. The diversionary unit shall also immediately refer the case to the prosecuting attorney for action if such youth fails to make restitution or perform community service as required by the diversion agreement.

(9) A diversionary unit may, in instances where it determines that the act or omission of an act for which a youth has been referred to it involved no victim, or where it determines that the youth referred to it has no prior criminal history and is alleged to have committed an illegal act involving no threat of or instance of actual physical harm and involving not more than fifty dollars in property loss or damage and that there is no loss outstanding to the person or firm suffering such damage or loss, counsel and release or release such a youth without entering into a diversion agreement: *Provided*, That any youth so handled shall be advised that the act or omission of any act for which he or she had been referred shall constitute a part of the youth's criminal history as defined by RCW 13.40.020(6). A signed acknowledgment of such advisement shall be obtained from the youth and the document shall be maintained by the unit and a copy of the document shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language: *Provided further*, That a youth determined to be eligible by a diversionary unit for such release shall retain the same right to counsel and right to have his or her case referred to the court for formal action as any other youth referred to the unit. [1977 1st ex.s. c 291 § 62.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.090 Prosecuting attorney as party to juvenile court proceedings—Exception, procedure. (Effective July 1, 1978.) The county prosecuting attorney shall be a party to all juvenile court proceedings involving juvenile offenders or alleged juvenile offenders.

The prosecuting attorney may, after giving appropriate notice to the juvenile court, decline to represent the state of Washington in juvenile court matters except felonies unless requested by the court on an individual

basis to represent the state at an adjudicatory hearing in which case he or she shall participate. When the prosecutor declines to represent the state, then such function may be performed by the juvenile court probation counselor authorized by the court or local court rule to serve as the prosecuting authority.

If the prosecuting attorney elects not to participate, the prosecuting attorney shall file with the county clerk each year by the first Monday in July notice of intent not to participate. In a county wherein the prosecuting attorney has elected not to participate in juvenile court, he or she shall not thereafter until the next filing date participate in juvenile court proceedings unless so requested by the court on an individual basis, in which case the prosecuting attorney shall participate. [1977 1st ex.s. c 291 § 63.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.100 Summons issued upon filing of information—Procedure—Order to take child into custody—Contempt of court, when. (Effective July 1, 1978.) (1) Upon the filing of an information, the clerk of the court shall issue a summons directed to the child, if the child is twelve or more years of age, and another to the parents, guardian, or custodian, and such other persons as appear to the court to be proper or necessary parties to the proceedings, requiring them to appear personally before the court at the time fixed to hear the petition. Where the custodian is summoned, the parent or guardian or both shall also be served with a summons.

(2) A copy of the information shall be attached to each summons.

(3) The summons shall advise the parties of the right to counsel.

(4) The judge may endorse upon the summons an order directing the parents, guardian, or custodian having the custody or control of the child to bring the child to the hearing.

(5) If it appears from affidavit or sworn statement presented to the judge that there is probable cause for the issuance of a warrant of arrest or that the child needs to be taken into custody pursuant to RCW 13.34.050 the judge may endorse upon the summons an order that an officer serving the summons shall at once take the child into custody and take the child to the place of detention or shelter designated by the court.

(6) If a party to be served with a summons can be found within the state, the summons shall be served upon the party personally at least five court days before the fact-finding hearing, or such time as set by the court. If the party is within the state and cannot be personally served, but the party's address is known or can with reasonable diligence be ascertained, the summons may be served upon the party by mailing a copy thereof by certified mail at least ten court days before the hearing, or such time as set by the court. If a party other than the child is without the state but can be found or the party's address is known, or can with reasonable diligence be ascertained, service of the summons may be made either by delivering a copy thereof to the party personally or by mailing a copy thereof to the party by

certified mail at least ten court days before the fact-finding hearing, or such time as set by the court.

(7) Service of summons may be made under the direction of the court by any law enforcement officer or probation counselor.

(8) If the person summoned as herein provided shall fail without reasonable cause to appear and abide the order of the court, the person may be proceeded against as for contempt of court. [1977 1st ex.s. c 291 § 64.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.110 Hearing on question of declining jurisdiction—Held, when—Findings. (Effective July 1, 1978.) (1) The prosecutor, respondent, or the court on its own motion may, before a hearing on the information on its merits, file a motion requesting the court to transfer the respondent for adult criminal prosecution and the matter shall be set for a hearing on the question of declining jurisdiction. Unless waived by the court, the parties, and their counsel, a decline hearing shall be held where:

(a) The respondent is sixteen or seventeen years of age and the petition alleges a class A felony or an attempt to commit a class A felony; or

(b) The respondent is seventeen years of age and the petition alleges assault in the second degree, extortion in the first degree, indecent liberties, kidnaping in the second degree, rape in the second degree, or robbery in the second degree.

(2) The court after a decline hearing may order the case transferred for adult criminal prosecution upon a finding that the declination would be in the best interest of the juvenile or the public. The court shall consider the relevant reports, facts, opinions, and arguments presented by the parties and their counsel.

(3) When the respondent is transferred for criminal prosecution or retained for prosecution in juvenile court, the court shall set forth in writing its finding which shall be supported by relevant facts and opinions produced at the hearing. [1977 1st ex.s. c 291 § 65.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.120 Adjudicatory hearing—Continued or disposition hearing, time and place, notice of. (Effective July 1, 1978.) The court shall hold an adjudicatory hearing on the information, and, after it has announced its findings of fact and its verdict, shall hold a hearing to consider disposition of the case pursuant to RCW 13.40.150 and 13.40.160 immediately following the adjudicatory hearing or at a continued hearing within fourteen days unless good cause is shown for a further continuance. Notice of the time and place of the continued hearing may be given in open court. If notice is not given in open court to a party, that party shall be notified by mail of the time and place of any continued hearing.

All hearings may be conducted at any time or place within the limits of the county, and such cases shall not be heard in conjunction with other business of any other

division of the superior court. [1977 1st ex.s. c 291 § 66.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.130 Procedure upon plea of guilty or not guilty to information allegations—Adjudicatory and disposition hearing—Disposition standards used in sentencing. (Effective July 1, 1978.) (1) The respondent shall be advised of the allegations in the information and shall be required to plead guilty or not guilty to the allegation(s). The state or the respondent may make preliminary motions up to the time of the plea.

(2) If the respondent pleads guilty, the court may proceed with disposition or may continue the case for a dispositional hearing. If the respondent denies guilt, a hearing date shall be set.

(3) At the adjudicatory hearing it shall be the burden of the prosecution to prove the allegations of the information beyond a reasonable doubt.

(4) The court shall record its findings of fact and shall enter its verdict upon the record. Such findings shall set forth the evidence relied upon by the court in reaching its verdict.

(5) If the respondent is found not guilty he or she shall be released from detention.

(6) If the respondent is found guilty the court may immediately proceed to disposition or may continue the case for a dispositional hearing.

(7) The court following an adjudicatory hearing may request that a predisposition study be prepared to aid the court in its evaluation of the matters relevant to disposition of the case.

(8) In sentencing an offender, the court shall use the disposition standards in effect on the date of the offense. [1977 1st ex.s. c 291 § 67.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.140 Youths entitled to usual judicial rights—Notice of—Open court—Privilege against self-incrimination—Waiver of rights, when. (Effective July 1, 1978.) (1) A youth shall be advised of his or her rights when appearing before the court.

(2) A youth and his or her parent, guardian, or custodian shall be advised by the court or its representative that the youth has a right to be represented by counsel at all critical stages of the proceedings. Unless waived, counsel shall be provided to a youth, who is financially unable to obtain counsel without causing substantial hardship to himself or herself or the youth's family, in any proceeding where the youth may be subject to transfer for criminal prosecution, or in any proceeding where the youth may be in danger of confinement or partial confinement. The ability to pay part of the cost of counsel shall not preclude assignment. In no case shall a youth be deprived of counsel because of a parent, guardian, or custodian refusing to pay therefor. The youth shall be fully advised of his or her right to an attorney and of the relevant services an attorney can provide.

(3) The right to counsel shall include the right to the appointment of experts necessary and the experts shall be required pursuant to the procedures and requirements established by the supreme court.

(4) Upon application of a party, the clerk of the court shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, or other tangible objects at any hearing, or such subpoenas may be issued by an attorney of record.

(5) All proceedings shall be transcribed verbatim by means which will provide an accurate record.

(6) The general public and press shall be permitted to attend any hearing unless the court, for good cause, orders a particular hearing to be closed. The presumption shall be that all such hearings will be open.

(7) In all adjudicatory proceedings before the court, all parties shall have the right to adequate notice, discovery as provided in criminal cases, opportunity to be heard, confrontation of witnesses except in such cases as this chapter expressly permits the use of hearsay testimony, findings based solely upon the evidence adduced at the hearing, and an unbiased fact-finder.

(8) A juvenile shall be accorded the privilege against self-incrimination. An extra judicial statement which would be constitutionally inadmissible in a criminal proceeding shall not be received in evidence at an adjudicatory hearing over objection. Evidence illegally seized or obtained shall not be received in evidence over objection at an adjudicatory hearing to prove the allegations against the child. An extra judicial admission or confession made by the child out of court is insufficient to support a finding that the child committed the acts alleged in the information unless a corpus delicti is first established.

(9) Waiver of any right which a child has under this chapter must be an express waiver intelligently made by the child after the child has been fully informed of the right being waived.

(10) Whenever this chapter refers to waiver or objection by a child, the word child shall be construed to refer to a child who is at least twelve years of age. If a child is under twelve years of age, the child's parent, guardian, or custodian shall give any waiver or offer any objection contemplated by this chapter. [1977 1st ex.s. c 291 § 68.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.150 Disposition hearing—Scope—Factors to be considered prior to entry of dispositional order. (Effective July 1, 1978.) (1) In disposition hearings all relevant and material evidence, including oral and written reports, may be received by the court and may be relied upon to the extent of its probative value, even though such evidence may not be admissible in a hearing on the information. The youth or the youth's counsel and the prosecuting attorney shall be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making reports when such individuals are reasonably available,

but sources of confidential information need not be disclosed. The prosecutor and counsel for the juvenile may submit recommendations for disposition.

(2) Before entering a dispositional order as to a respondent found to have committed an offense, the court shall hold a disposition hearing, at which the court shall:

(a) Consider the facts supporting the allegations of criminal conduct by the respondent;

(b) Consider information and arguments offered by parties and their counsel;

(c) Consider any predisposition reports;

(d) Afford the respondent and the respondent's parent, guardian, or custodian an opportunity to speak in the respondent's behalf;

(e) Allow the victim or a representative of the victim and an investigative law enforcement officer to speak;

(f) Determine the amount of restitution owing to the victim, if any;

(g) Determine whether the respondent is a serious offender or a minor or first offender;

(h) Consider whether or not any of the following mitigating factors exist:

(i) The respondent's conduct neither caused nor threatened serious bodily injury or the respondent did not contemplate that his or her conduct would cause or threaten serious bodily injury;

(ii) The respondent acted under strong and immediate provocation;

(iii) The respondent was suffering from a mental or physical condition that significantly reduced his or her culpability for the offense though failing to establish a defense;

(iv) Prior to his or her detection, the respondent compensated or made a good faith attempt to compensate the victim for the injury or loss sustained; and

(v) There has been at least one year between the respondent's current offense and any prior criminal offense;

(i) Consider whether or not any of the following aggravating factors exist:

(i) In the commission of the offense, or in flight therefrom, the respondent inflicted or attempted to inflict serious bodily injury to another;

(ii) The offense was committed in an especially heinous, cruel, or depraved manner;

(iii) The victim or victims were particularly vulnerable;

(iv) The respondent has a recent criminal history or has failed to comply with conditions of a recent dispositional order or diversion agreement; and

(v) The respondent was the leader of a criminal enterprise involving several persons;

(j) The following factors shall not be considered in determining the punishment to be imposed:

(i) The sex of the respondent;

(ii) The race or color of the respondent or the respondent's family;

(iii) The creed or religion of the respondent or the respondent's family;

(iv) The economic or social class of the respondent or the respondent's family; and

(v) Factors indicating that the respondent may be or is a dependent child within the meaning of this chapter;

(k) A court shall not commit a youth to a state institution solely because of the lack of facilities, including treatment facilities, existing in the community. [1977 1st ex.s. c 291 § 69.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.160 Disposition order—Court's action prescribed—Right of appeal, when. (Effective July 1, 1978.) (1) When the respondent is found to be a serious offender, the court shall commit the offender to the department for a determinate sentence consisting of the standard range of disposition for the offense.

If the court finds that a disposition within the standard range would effectuate a manifest injustice, the court may impose a disposition outside the range but only after it enters reasons upon which it bases its conclusion that disposition within the standard range would effectuate a manifest injustice. A disposition imposed outside a standard range is appealable under RCW 13.40.230 by the state or the respondent. A disposition within the standard range is not appealable under RCW 13.40.230.

(2) Where the respondent is found to be a minor or first offender, the court shall order that the respondent serve a term of community supervision. If the court determines that a disposition of community supervision would effectuate a manifest injustice the court may impose another disposition. A disposition other than a community supervision shall be imposed only after the court enters reasons upon which it bases its conclusions that imposition of community supervision would effectuate a manifest injustice. Any disposition other than community supervision may be appealed as provided in RCW 13.40.230 by the state or the respondent. A disposition of community supervision may not be appealed under RCW 13.40.230.

(3) A juvenile appearing before the court for formal disposition who has declined to enter into a diversion agreement and who would otherwise be so entitled shall, if determined to be a first or minor offender, be referred to a diversionary unit under the supervision of which such youth may only be required to perform the term of community service and, where there is a victim, shall be required to make restitution under the limits specified in this chapter.

(4) Where the respondent is found to have committed an offense and is neither a serious offender nor a minor or first offender, consistent with the purposes of this chapter the court shall: (a)(i) Where the appropriate standard range includes a period of confinement exceeding thirty days, sentence the offender to the department for a term consisting of the appropriate standard range, or (ii) where the appropriate standard range does not include a period of confinement exceeding thirty days, sentence the offender to a determinate term within the appropriate standard range in which case the court shall consider only those aggravating and mitigating factors set forth in RCW 13.40.150 and shall state its reasons for selecting the particular punishment imposed, or (b)

shall impose a term of community supervision. If the court sentencing pursuant to subsection (a)(i) or (ii) of this section finds that a disposition within the standard range would effectuate a manifest injustice, it may impose a disposition other than community supervision outside the range but only after it enters reasons upon which it bases its conclusion that disposition within the standard range would effectuate a manifest injustice. A disposition so imposed outside the standard range may be appealed as provided in RCW 13.40.230 by the state or the respondent. A disposition within the standard range or of community supervision shall not be appealable under RCW 13.40.230.

(5) A court may require a juvenile offender to serve a period of partial confinement not to exceed thirty days or a period of confinement not to exceed the minimum period of confinement included within the standard range for the offense(s) for which he or she was found guilty, but in no case to exceed thirty days: *Provided*, That such periods of partial confinement and confinement may be required only of youthful offenders who are: (a) Not sentenced to a sentence within a range established by the legislature; (b) not committed to the department; (c) not first and minor offenders; and (d) are serving terms of community supervision: *Provided further*, That all such terms of partial confinement and confinement shall be served in a facility operated by or pursuant to a contract with a county or city. [1977 1st ex.s. c 291 § 70.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.170 Fingerprints and photograph, when. (Effective July 1, 1978.) The fingerprints and photograph may be taken of any serious offender. [1977 1st ex.s. c 291 § 71.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.180 Disposition order—Consecutive terms when two or more offenses—Limitations. (Effective July 1, 1978.) Where a disposition is imposed on a youth for two or more offenses, the terms shall run consecutively, subject to the following limitations: (1) Where the offenses were committed through a single act or omission, or through an act or omission which in itself constituted one of the offenses and also was an element of the other, the aggregate of all the terms shall not exceed one hundred fifty percent of the term imposed for the most serious offense; and (2) in all other cases, the aggregate of all consecutive terms shall not exceed three hundred percent of the term imposed for the most serious offense. [1977 1st ex.s. c 291 § 72.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.190 Disposition order—Restitution for loss, or service for the public good—Procedure on nonperformance. (Effective July 1, 1978.) (1) In its dispositional order, the court shall require the respondent to make restitution to any persons who have suffered loss or damage as a result of the offense committed by the

respondent. The payment of restitution shall be in addition to any punishment which is imposed pursuant to the other provisions of this chapter. The court may determine the amount, terms, and conditions of the restitution. If the respondent participated in the crime with another person or other persons, all such participants shall be jointly and severally responsible for the payment of restitution: *Provided*, That the court shall not require the respondent to pay full or partial restitution if the respondent reasonably satisfies the court that he or she does not have the means to make full or partial restitution and could not reasonably acquire the means to pay such restitution.

(2) When a respondent who has been ordered by a court to pay a fine or restitution, or to perform service for the public good fails to fulfill that order, the court upon the motion of the prosecutor or upon its own motion, shall require the respondent to show cause why the respondent should not be confined in a detention facility for nonfulfillment. The court may issue a summons or a warrant for arrest to compel the respondent's appearance.

(3) The respondent shall have the burden of showing that the nonpayment or nonfulfillment was not a wilful refusal and that he or she did not have the means and could not reasonably acquire the means to pay the fine or restitution or to perform the service for the public good. If the court finds that the default was wilful, it may order the youth detained in a county facility for one day for each twenty-five dollars of restitution or fine on which the youth wilfully defaulted or may order the youth detained in a county facility for one day for each eight hours of community service on which the youth wilfully defaulted. [1977 1st ex.s. c 291 § 73.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.200 Violation of condition of community supervision, revocation or modification of, scope. (Effective July 1, 1978.) Consistent with the purposes of this chapter, if the respondent violates a condition of his or her community supervision, community supervision may be revoked or modified and further permissible punishment imposed pursuant to the provisions of this chapter. Such punishment may include a period of confinement and/or partial confinement in a county facility not to exceed thirty days. Community supervision may only be revoked or modified upon the same due process as would be afforded an adult alleged probation violator. [1977 1st ex.s. c 291 § 74.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.210 Setting of release or discharge date—Parole program, revocation or modification of, scope—Parole officer's right of arrest. (Effective July 1, 1978.) (1) The secretary shall, except in the case of a youth committed by a court to a term of confinement in a state institution outside the appropriate standard range for the offense(s) for which the youth was found to be guilty established pursuant to RCW 13.40.030, set a release or discharge date for each youth committed to its custody

which shall be within the prescribed range to which a youth has been committed. Such dates shall be determined prior to the expiration of sixty percent of a youth's minimum term of confinement included within the prescribed range to which the youth has been committed.

(2) Following the youth's release pursuant to subsection (1) of this section, the secretary may require the youth to comply with a program of parole to be administered by the department in his or her community which shall last no longer than eighteen months. The secretary shall, for the period of parole, facilitate the youth's reintegration into his or her community and to further this goal may require the youth to: (a) Undergo available medical or psychiatric treatment; (b) report as directed to a parole officer; (c) pursue a course of study or vocational training; (d) remain within prescribed geographical boundaries and notify the department of any change in his or her address; and (e) refrain from committing new offenses. After termination of the parole period, the youth shall be discharged from the department's supervision.

(3) The department may also revoke or modify parole for violation thereof. If, after affording a youth all of the due process rights to which he or she would be entitled if the youth were an adult, the secretary finds that a youth has violated a condition of his or her parole, the secretary shall order one of the following which is reasonably likely to effectuate the purpose of the parole and to protect the public: (a) Continued supervision under the same conditions previously imposed; (b) intensified supervision with increased reporting requirements; (c) additional conditions of supervision authorized by this chapter; and (d) imposition of a period of partial confinement not to exceed thirty days.

(4) A parole officer of the department of social and health services shall have the power to arrest a juvenile under his or her supervision on the same grounds as a law enforcement officer would be authorized to arrest such person. [1977 1st ex.s. c 291 § 75.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.220 Costs of support, treatment and confinement, order for—Contempt of court, when. (Effective July 1, 1978.) Whenever legal custody of a child is vested in someone other than his or her parents, after due notice to the parents or other persons legally obligated to care for and support the child, and after a hearing, the court may order and decree that the parent or other legally obligated person shall pay in such a manner as the court may direct a reasonable sum representing in whole or in part the costs of support, treatment, and confinement of the child after the decree is entered. If the parent or other legally obligated person wilfully fails or refuses to pay such sum, the court may proceed against such person for contempt. [1977 1st ex.s. c 291 § 76.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.230 Appeal from order of disposition—Jurisdiction—Procedure—Scope. (Effective July 1, 1978.) (1) Dispositions reviewed pursuant to RCW 13.40.160 shall be reviewed in the appropriate division of the court of appeals.

An appeal under this section shall be heard solely upon the record that was before the disposition court. No written briefs shall be required and the appeal shall be heard within thirty days following the date of sentencing and a decision rendered within fifteen days following the argument. The supreme court shall promulgate any necessary rules to effectuate the purposes of this section.

(2) To uphold a disposition outside the standard range, or which imposes confinement for a minor or first offender, the court of appeals must find (a) that the reasons supplied by the disposition judge are supported by the record which was before the judge and that those reasons clearly and convincingly support the conclusion that a disposition within the range, or nonconfinement for a minor or first offender, would constitute a manifest injustice, and (b) that the sentence imposed was neither clearly excessive nor clearly too lenient.

(3) If the court does not find subsection (2)(a) of this section it shall remand the case for disposition within the standard range or for community supervision without confinement as would otherwise be appropriate pursuant to this chapter.

(4) If the court finds subsection (2)(a) but not subsection (2)(b) of this section it shall remand the case with instructions for further proceedings consistent with the provisions of this chapter.

(5) Pending appeal, a respondent shall not be committed or detained for a period of time in excess of the standard range for the offense(s) committed and shall not be detained if a first or minor offender: *Provided*, That if the order of the disposition court is below the standard range, the respondent shall be committed or detained for no longer than the term set by the disposition court.

(6) Dispositions imposed by the disposition court shall not be final until either the deadline for appeal pursuant to state law or supreme court rule has passed without an appeal being taken, or the court of appeals has issued its decision on the appeal. [1977 1st ex.s. c 291 § 77.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.240 Construction of RCW references to juvenile delinquents or juvenile delinquency. (Effective July 1, 1978.) All references to juvenile delinquents or juvenile delinquency in other chapters of the Revised Code of Washington shall be construed as meaning juvenile offenders or the commitment of an offense by juveniles as defined by this chapter. [1977 1st ex.s. c 291 § 78.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

13.40.300 Commitment of delinquent beyond age twenty-one prohibited—Jurisdiction of juvenile court. (Effective July 1, 1978.) In no case shall a delinquent juvenile be committed by the juvenile court to the

department of social and health services for placement in a juvenile correctional institution beyond the child's twenty-first birthday. A delinquent juvenile shall be under the jurisdiction of the juvenile court or the authority of the department of social and health services beyond the child's eighteenth birthday only if the juvenile court has, prior to the juvenile's eighteenth birthday, found the juvenile to be delinquent and has extended the jurisdiction beyond the child's eighteenth birthday by written order setting forth its reasons therefor.

In no event shall the juvenile court have authority to extend jurisdiction over any delinquent juvenile beyond the juvenile's twenty-first birthday. [1975 1st ex.s. c 170 § 1. Formerly RCW 13.04.260.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

Title 14 AERONAUTICS

Chapters

14.04 Aeronautics commission.

Chapter 14.04 AERONAUTICS COMMISSION

Sections

14.04.010 through 14.04.020 Recodified.
14.04.030 through 14.04.050 Repealed.
14.04.060 through 14.04.250 Recodified.
14.04.260 through 14.04.270 Repealed.
14.04.280 through 14.04.910 Recodified.

14.04.010 through 14.04.020 Recodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

14.04.030 through 14.04.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

14.04.060 through 14.04.250 Recodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

14.04.260 through 14.04.270 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

14.04.280 through 14.04.910 Recodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

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Title 15 AGRICULTURE AND MARKETING

Chapters

15.04 General provisions.
15.14 Planting stock.
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15.32 Dairies and dairy products.
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15.65 Washington state agricultural enabling act of 1961.
15.67 Agricultural conservation plans—1953 act.
15.68 Agricultural conservation plans—1937 act.

Chapter 15.04 GENERAL PROVISIONS

Sections

15.04.020 Director's general duties and powers.

15.04.020 Director's general duties and powers. The director shall:

(1) Furnish to the board of county commissioners of each county annually, on or before September 1st, an estimate of the expenses for the ensuing year of inspecting and disinfecting the horticultural plants, fruits, vegetables and nursery stock and the places in the county where grown, packed, stored, shipped, held for shipment or delivery, or offered for sale;

(2) Appoint inspectors to enforce and carry out the provisions of this title, who may be of two classes: Inspectors-at-large and local inspectors, but no more than twenty inspectors-at-large shall be appointed;

(3) Adopt, promulgate and enforce such rules and regulations as are necessary to or will facilitate his carrying out of the horticultural laws he is authorized and directed to administer and enforce; and

(4) Adopt, promulgate and enforce rules and regulations:

(a) governing the grading, packing, and size and dimensions of commercial containers of fruits, vegetables, and nursery stock;

(b) fixing commercial grades of fruits, vegetables and nursery stock, and providing for the inspection thereof and issuance of certificates of inspection therefor;

(c) for the inspection, grading and certifying of growing crops of agricultural and vegetable seeds and the fixing and collecting of fees for such services;

(d) covering the collection of native plants and parts thereof, and when the manner of collection is destructive of the plants, prohibiting such collecting;

(e) establishing quarantine measures and methods for the protection of agricultural and horticultural crops and products and the control or eradication of pests and diseases injurious thereto;

(f) he may appoint any officer or member of a local fruit protective association to act as inspector, vested with power only to enter premises and inspect orchards and report to the inspector-at-large. Such inspectors shall receive no compensation for services and need not take the regular examination required of other inspectors. [1977 c 75 § 7; 1961 c 11 § 15.04.020. Prior: (i) 1943 c 150 § 2, part; 1927 c 311 § 2, part; 1921 c 141 § 2, part; 1919 c 195 § 1, part; 1915 c 166 § 2, part; Rem. Supp. 1943 § 2840, part. (ii) 1941 c 20 § 15; 1935 c 168 § 3; Rem. Supp. 1941 § 2849-2f.]

Chapter 15.14 PLANTING STOCK

Sections

15.14.090 Repealed.

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

Chapter 15.17 STANDARDS OF GRADES AND PACKS

Sections

15.17.250 Annual reports of inspectors-at-large—Reduction in service fees, when.

15.17.250 Annual reports of inspectors-at-large—Reduction in service fees, when. On the thirtieth day of June of each year the inspectors-at-large shall render to the legislative authority of every county in which such service has been rendered in their districts, a complete account of the past year's business. In the event that there is money remaining in any horticulture district fund after all expenses for the current year's services have been paid, the service fees charged to contributors in the following year shall be reduced by the amount by which the money remaining in the fund exceeds the average of the gross fee income for the current year and the immediately preceding year. [1977 1st ex.s. c 26 § 1; 1969 ex.s. c 76 § 3; 1963 c 122 § 25.]

Chapter 15.28 SOFT TREE FRUITS

Sections

15.28.180 Increase of assessment for a fruit or classification—Exemptions.

15.28.180 Increase of assessment for a fruit or classification—Exemptions. The same assessment shall be made for each soft tree fruit, except that if a two-thirds majority of the state commodity committee of any fruit recommends in writing the levy of an additional assessment on such fruit, or any classification thereof, for any year or years, the commission may levy such assessment for such year or years up to the maximum of six dollars for each two thousand pounds of any fruit except cherries or any classification thereof, as to

which the assessment may be increased to a maximum of twenty dollars for each two thousand pounds, and except pears covered by this chapter as now or hereafter amended, as to which the assessment may be increased to a maximum of nine dollars for each two thousand pounds: *Provided*, That no increase in such assessment on pears shall become effective unless the same shall be first referred by the commission to a referendum by the Bartlett pear growers of the state and be approved by a majority of such growers voting thereon. The method and procedure of conducting such referendum shall be determined by the commission. Any funds so raised shall be expended solely for the purposes provided in this chapter and solely for such fruit, or classification thereof.

The commission shall have the authority in its discretion to exempt in whole or in part from future assessments hereunder, during such period as the commission may prescribe, any of the said soft tree fruits or any particular strain or classification thereof. [1977 1st ex.s. c 8 § 1; 1965 ex.s. c 43 § 1; 1963 c 51 § 4; 1961 c 11 § 15.28.180. Prior: 1947 c 73 § 26; Rem. Supp. 1947 § 2909-35.]

Chapter 15.32 DAIRIES AND DAIRY PRODUCTS

Sections

15.32.696 Repealed.

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

Chapter 15.49 WASHINGTON STATE SEED ACT

Sections

15.49.250 "Certifying agency".
15.49.340 Violations—Distributing mislabeled seed—Detaching, altering, etc., labels—Hindering or obstructing department—Screenings.

15.49.250 "Certifying agency". "Certifying agency" means (1) an agency authorized under the laws of a state, territory, or possession to officially certify seed and which employs standards and procedures approved by the United States secretary of agriculture to assure the genetic purity and identity of the seed certified, or (2) an agency of a foreign country that adheres to procedures and standards for seed certification comparable to those established under the provisions of this chapter and the regulations adopted thereunder. [1977 1st ex.s. c 26 § 2; 1969 c 63 § 25.]

15.49.340 Violations—Distributing mislabeled seed—Detaching, altering, etc., labels—Hindering or obstructing department—Screenings. It shall be unlawful for any person:

(1) To distribute mislabeled seed. Seed shall be deemed to be mislabeled:

(a) If the germination test, required by RCW 15.49.320 has not been completed within the following time limitations:

(i) Eight months for seeds distributed to a dealer for resale.

(ii) Eighteen months for seeds distributed by a dealer at retail.

(iii) When seeds are packaged under conditions which the department has determined will prolong their viability, the department may designate a longer period than otherwise specified in this section, and may require additional labeling to maintain identification of seed packaged under such conditions.

(b) If it is not labeled in accordance with RCW 15.49.320 or regulations adopted thereunder: *Provided*, That no person shall be subject to the penalties of this chapter for having distributed seed which is incorrectly labeled or misrepresented as to kind, type, variety, or origin and which seed cannot be identified by examination thereof, if he possesses, at the time of notification of the violation, an invoice or a declaration from a distributor or grower giving kind, type, variety, or origin, and if he has taken such other precautions necessary to insure the identity to be that stated.

(c) If advertising or labeling is false or misleading in any way.

(d) If composition or quality falls below or differs from that which it is purported or represented to be by its labeling.

(e) If it consists of or contains prohibited noxious weed seeds.

(f) If it consists of or contains restricted noxious weed seeds in excess of the number declared on the label: *Provided*, That the maximum number of restricted noxious weed seeds per pound shall not exceed that amount established by regulations.

(g) If the total weed seed content is in excess of two percent.

(h) If it contains less than twenty-five percent pure live seed.

(i) If its labeling represents it to be foundation, registered or certified seed unless it has been inspected and tagged accordingly by a certifying agency meeting certification standards of the department.

(j) If a white, purple, or blue colored tag is attached which is of similar size and format to the official certification tag which could be mistaken for the official certification tag.

(k) If labeled with a variety name but not certified by a certifying agency when it is a variety for which a certificate of plant variety protection under the federal plant variety protection act (84 Stat. 1542, 7 U.S.C. Sec. 2321 et seq.) specifies sale only as a class of certified seed: *Provided*, That seed from a certified lot may be labeled as to variety name when used in a mixture by, or with the approval of, the owner of the variety.

(2) To detach, alter, deface, or destroy any seed label or alter or substitute seed in a manner that may defeat the purpose of this chapter.

(3) To hinder or obstruct the department in the performance of its duties under this chapter.

(4) To engage in the cleaning of seeds, entered by growers for certification, without first having obtained a seed processing permit from the department.

(5) To distribute screenings for seeding purposes. [1977 1st ex.s. c 26 § 3; 1969 c 63 § 34.]

Chapter 15.60 APIARIES

Sections

15.60.005	Definitions.
15.60.015	Inspection—Disease control—Standards of strength—Identification—Abandoned apiaries—Rules, regulations, orders.
15.60.025	Apiary board.
15.60.030	Registration of apiaries—Registration number—Fee—Posting.
15.60.040	Inspection—Eradication of disease—Quarantine—Public nuisance.
15.60.043	Colony strength inspection.
15.60.045	Seizure and destruction of abandoned and disease contaminated colonies, hives, bees or appliances.
15.60.050	Right of entry to inspect.
15.60.100	Importation of bees and appliances.
15.60.110	Certain importation prohibited.
15.60.160	Repealed.
15.60.900	Severability—1977 1st ex.s. c 362.

15.60.005 Definitions. As used in this chapter:

(1) "Director" means the director of agriculture of the state of Washington;

(2) "Department" means the department of agriculture of the state of Washington;

(3) "Apiary" includes bees, hives, and appliances, wherever they are kept, located, or found;

(4) "Apiarist" means any person who owns bees or is a keeper of bees;

(5) "Appliances" means any implements or devices used in the manipulating of bees or their brood or hives, which may be used in any apiary or any extracting or packing equipment;

(6) "Bees" means honey producing insects of the species *apis mellifera* and include the adults, eggs, larvae, pupae, or other immature stages thereof, together with such materials as are deposited into hives by their adults, except honey and beeswax in rendered form;

(7) "Colony" or "colonies of bees" refers to any hive occupied by bees;

(8) "Disease" means American foul brood or European foul brood or any other disease or any condition affecting bees or their brood which may cause an epidemic;

(9) "Hive" means any receptacle or container made or prepared for the use of bees, or box or similar container taken possession of by bees;

(10) "Location" means any premises upon which an apiary is located;

(11) "Person" includes any individual, firm, partnership, association, or corporation, but does not include any common carrier when engaged in the business of transporting bees, hives, appliances, bee cages, or other commodities subject to the provisions of this chapter, in the regular course of business;

(12) "Inspector" means an apiary inspector authorized by the director to inspect apiaries as provided in this chapter. [1977 1st ex.s. c 362 § 1; 1961 c 11 § 15.60.005. Prior: 1955 c 271 § 1.]

15.60.015 Inspection—Disease control—Standards of strength—Identification—Abandoned apiaries—Rules, regulations, orders. (1) The director shall have the power on his own motion or by petition of industry to promulgate and enforce such reasonable rules, regulations, and orders as he may deem necessary or proper to prevent the introduction or spreading of diseases affecting bees or appliances in this state, and to promulgate and enforce such reasonable rules, regulations, and orders as he may deem necessary or proper governing the inspection of all bees and appliances within or about to be imported into this state. Such rules may include establishment of (a) standards of strength for colonies of bees used for pollinating services, and (b) a system of identification for bee hives.

(2) The director shall establish rules to define abandoned apiaries and the control thereof.

(3) All rules, regulations, and orders under this section shall be adopted in accordance with chapter 34.04 RCW. [1977 1st ex.s. c 362 § 2; 1961 c 11 § 15.60.015. Prior: 1955 c 271 § 2.]

15.60.025 Apiary board. There is created in the department the apiary board, hereafter in this section referred to as the "board", consisting of six members appointed by the director. The members of the board shall be beekeepers representing the major geographical divisions of the beekeeping industry in the state. Such geographical divisions shall be determined by the director in accordance with the provisions of chapter 34.04 RCW. In making his selection of the membership of the board, the director shall take into consideration the recommendations of the beekeeping industry.

The term of office of the members of the board shall be three years. Appointment of the first members of the board shall be so made that the terms of two members shall expire at the end of one year, two at the end of two years, and two at the end of three years. Thereafter appointments shall be for full three year terms. No person shall serve two successive terms as a member of the board.

The director may appoint a department representative as the secretary of the board.

The board shall be advisory to the director on all matters relating to the beekeeping industry and may make recommendations on all matters affecting the activities of the department in relation to the beekeeping industry.

The board shall meet at the call of the director or at the request of any three members of the board. It shall meet at least once each year.

Each member of the board shall serve without compensation, but shall be reimbursed for travel expenses incurred in attending meetings of the board and any other official duty authorized by the board and approved by the director in accordance with RCW 43.03.050 and

43.03.060: *Provided, however,* That the board shall be compensated only if apiarists are charged a sufficient fee to cover the expenses of the apiary board. [1977 1st ex.s. c 362 § 8.]

15.60.030 Registration of apiaries—Registration number—Fee—Posting. Each person owning or having bees in his possession shall register with the director, the location of the bee yard, name, address, and phone number of the owner, and post at the bee yard a registration number as provided for herein, on or before April 1st each year. A registration fee may be set by the department of agriculture in compliance with chapter 34.04 RCW for the sole purpose of covering the expenses of the apiary board.

The director shall issue to each apiarist owning or operating more than twenty-five colonies in the state who is registered with the department a registration number, transferable, which shall be posted conspicuously at the entrance of each apiary at all times, not more than one hundred fifty feet from the bees: *Provided,* That any identification number assigned to an apiarist prior to September 21, 1977 shall be assigned to such apiarist as his registration number. Bees placed in orchards for pollination shall be exempt from posting during placement: *Provided,* That any apiarist with no more than twenty-five colonies shall, when placing bees on other than his own property, post his name and address in the apiary. [1977 1st ex.s. c 362 § 3; 1965 c 44 § 1; 1961 c 11 § 15.60.030. Prior: 1955 c 271 § 5; prior: 1949 c 105 § 1, part; 1945 c 113 § 1, part; 1933 ex.s. c 59 § 2, part; 1919 c 116 § 3, part; Rem. Supp. 1949 § 3170-2, part.]

15.60.040 Inspection—Eradication of disease—Quarantine—Public nuisance. (1) The director shall make or cause to be made whenever he deems it necessary, inspections of all apiaries.

(2) Whenever a disease exists in any apiary, the inspector making the inspection shall plainly mark the hives containing diseased bees. The inspector shall, in writing, notify the owner or person in charge or in possession of such apiary by certified or registered mail, stating in the notice the nature of the disease found in each colony, identifying such colony by reference to the mark placed upon the hive thereof, and ordering eradication of such disease in accordance with subsections (3) and (4) of this section within a specified time. When the owner or person in charge or possession of any apiary is not known, the notice shall be served by posting in a conspicuous place in the apiary, or by mailing a copy thereof to the owner's registered address.

(3) The owner or person in charge or in possession of any diseased bees must eradicate such disease within the time specified in the notice. If the disease is American foul brood, the time specified in the notice shall not be less than twenty-four hours nor more than one hundred and twenty hours from the time of serving the notice.

(4) The owner or person in charge or possession of any hive infected with American foul brood shall eradicate such disease by;

(a) Burning the diseased hive including bees, combs, frames, honey, and wax, and burying the ashes by means approved by the director; or

(b) Delivering the hive, comb intact, to a wax salvage plant which has been designated by the director as suitable for such purposes which shall disinfect the hive by means approved by the director.

(5) Any apiary which is found to be infected with American foul brood and to be dangerous to the health of any apiary in this state may be summarily quarantined by the department. Notice of the quarantine shall be posted prominently on the apiary, and the owner notified of such quarantine. The quarantine shall not be removed until the department reasonably determines that no further infection exists. During the quarantine period, no bees, honey, appliances, equipment, or other materials may be removed from the apiary without first procuring a permit from the department. However, such bees, honey, appliances, equipment, or other materials may be removed for the purpose of eradicating the disease.

(6) (a) If the inspector finds that American foul brood disease has infected more than two hives of ninety-nine hives or fewer, or more than two percent of hives of one hundred or more, he may, if he deems it necessary, make a complete inspection of all hives in the apiary and the owner of the apiary shall pay the actual and necessary costs of the complete inspection.

(b) Every apiary in which American foul brood is found shall be declared a public nuisance. Whenever any such nuisance exists and the owner refuses or neglects to abate it within the time specified in the notice issued under subsection (2) of this section, the inspector shall abate said nuisance by burning the condemned hive and its contents, including bees, hive bodies, frames and wax, bottom boards, and covers, within forty-eight hours after the time specified in the notice. The owner shall pay the actual and necessary costs of abatement.

(7) The owner or operator of any colony of bees found to be infected with American foul brood shall upon his request be entitled to a scientific analysis of such colony before it is declared a public nuisance by the director. The results of such analysis shall be conclusive as to whether the colony is diseased. The costs of such scientific analysis shall be paid by the apiarist owning or operating the colonies being analyzed if it is found to be diseased. In case the colony is found not to be diseased, the department shall pay the cost of the scientific analysis. The laboratory performing such scientific analysis shall be approved by the director. [1977 1st ex.s. c 362 § 4; 1961 c 11 § 15.60.040. Prior: 1959 c 174 § 1; 1955 c 271 § 6; prior: (i) 1949 c 105 § 2; 1933 ex.s. c 59 § 3; Rem. Supp. 1949 § 3170-3. (ii) 1933 ex.s. c 59 § 4; RRS § 3170-4.]

15.60.043 Colony strength inspection. An owner of bees or his pollination customer may request the director to make a colony strength inspection of any colony of bees. The director, subject to the availability of qualified personnel, shall make such inspection but shall provide the apiarist with advance notice, in writing, of the inspection date. The director shall charge the person

requesting such inspection the costs of such inspection, including per diem and travel expenses of the inspector. A copy of the certificate report shall be sent to the person or persons owning the bees within forty-eight hours of the colony strength inspection.

The colony strength requirement shall be decided on a yearly basis by the director, in cooperation with the apiary board created by RCW 15.60.025. [1977 1st ex.s. c 362 § 9.]

15.60.045 Seizure and destruction of abandoned and disease contaminated colonies, hives, bees or appliances. Any colony, hive, bees, or any appliances found by the director to be both abandoned and contaminated with disease shall be seized and destroyed by the director in a manner which will prevent the spread of disease. [1977 1st ex.s. c 362 § 10.]

15.60.050 Right of entry to inspect. Inspectors shall have access to all apiaries and places where bees, hives, or other related equipment are kept, and it shall be unlawful to resist, impede, or hinder such officers in the discharge of their duties. [1977 1st ex.s. c 362 § 5; 1961 c 11 § 15.60.050. Prior: 1933 ex.s. c 59 § 6; RRS § 3170-6.]

15.60.100 Importation of bees and appliances. It shall be unlawful for any person, or any railroad or transportation company, or other common carrier, to bring into this state for any purpose any bees or used appliances without first having secured an official certificate, certified by the state bee inspector of the state of origin that such bees and appliances are not infected with disease. Written notice shall be given by the owner to the director within three days after the date of arrival, giving the date of arrival, destination and/or location of bees or used appliances, and a copy of the inspection certificate issued by the state of origin. Each apiary or location shall be marked for identification by placing the name or recognized abbreviation of the state of origin, and the initials of the person importing the bees, hives, or used appliances in letters at least one inch in height. If evidence of any disease is found such imported bees or appliances shall be subject to the same provisions as local bees or appliances. Each person who brings colonies of bees into this state shall register such colonies, as provided by RCW 15.60.030, within three days.

A resident beekeeper of Washington state who obtains a valid inspection certificate and moves his bees out of state for wintering shall not be required to obtain an inspection certificate from the state from which they are being returned, provided that the bees are returned to the state prior to May 15th each year. [1977 1st ex.s. c 362 § 7; 1961 c 11 § 15.60.100. Prior: 1955 c 271 § 9; prior: (i) 1941 c 130 § 2; Rem. Supp. 1941 § 3183-2. (ii) 1941 c 130 § 3, part; Rem. Supp. 1941 § 3183-3, part. (iii) 1949 c 105 § 5; 1941 c 130 § 5; 1933 ex.s. c 59 § 7; 1919 c 116 § 11; Rem. Supp. 1949 § 3183-5. (iv) 1949 c 105 § 3; Rem. Supp. 1949 § 3170-10.]

15.60.110 Certain importation prohibited. No person shall knowingly import into this state any bees of the

subspecies *apis mellifera adonsonii*, or African honey bee, except for research purposes under permit from the director and under conditions as set forth by the director. [1977 1st ex.s. c 362 § 6; 1961 c 11 § 15.60.110. Prior: 1955 c 271 § 10; prior: 1941 c 130 § 3, part; Rem. Supp. 1941 § 3183-3, part.]

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

15.60.900 Severability—1977 1st ex.s. c 362. 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. [1977 1st ex.s. c 362 § 11.]

Chapter 15.64 FARM MARKETING

Sections
15.64.020 Repealed.

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

Chapter 15.65 WASHINGTON STATE AGRICULTURAL ENABLING ACT OF 1961

Sections
15.65.210 Powers and duties of director with respect to the administration and enforcement of agreements and orders—Administrator—Personnel.

15.65.210 Powers and duties of director with respect to the administration and enforcement of agreements and orders—Administrator—Personnel. The director shall administer, enforce, direct, and control every marketing agreement and order in accordance with its provisions. For such purposes he shall include in each order and he may include in each agreement provisions for the employment of such administrator and such additional personnel (including attorneys engaged in the private practice of law, subject to the approval and supervision of the attorney general) as he determines are necessary and proper for such order or agreement to effectuate the declared policies of this chapter. Such provisions may provide for the qualifications, method of selection, term of office, grounds of dismissal and the detailed powers and duties to be exercised by such administrator or board and by such additional personnel, including the authority to borrow money and incur indebtedness, and may also provide either that the said administrative board shall be the commodity board or that the administrator or administrative board be designated by the director or the governor. [1977 1st ex.s. c 26 § 4; 1961 c 256 § 21.]

Chapter 15.67

AGRICULTURAL CONSERVATION PLANS— 1953 ACT

Sections
15.67.010 through 15.67.070 Repealed.

15.67.010 through 15.67.070 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 15.68

AGRICULTURAL CONSERVATION PLANS— 1937 ACT

Sections
15.68.010 through 15.68.150, 15.68.900 Repealed.

15.68.010 through 15.68.150, 15.68.900 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 16

ANIMALS, ESTRAYS, BRANDS AND FENCES

Chapters

16.44 Diseases of sheep.
16.54 Abandoned animals.
16.72 Fur farming.

Chapter 16.44

DISEASES OF SHEEP

Sections
16.44.100 Repealed.
16.44.170 Repealed.

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

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

Chapter 16.54

ABANDONED ANIMALS

Sections
16.54.010 When deemed abandoned.

16.54.010 When deemed abandoned. An animal is deemed to be abandoned under the provisions of this chapter when it is placed in the custody of a veterinarian, boarding kennel owner, or any person for treatment, board, or care and:

(1) Having been placed in such custody for an unspecified period of time the animal is not removed within fifteen days after notice to remove the animal has

been given to the person who placed the animal in such custody or having been so notified the person depositing the animal refuses or fails to pay agreed upon or reasonable charges for the treatment, board, or care of such animal, or;

(2) Having been placed in such custody for a specified period of time the animal is not removed at the end of such specified period or the person depositing the animal refuses to pay agreed upon or reasonable charges for the treatment, board, or care of such animal. [1977 1st ex.s. c 67 § 1; 1955 c 190 § 1.]

Chapter 16.72 FUR FARMING

Sections

16.72.050 Repealed.

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

Title 17 WEEDS, RODENTS AND PESTS

Chapters

17.08 Weed extermination areas.
17.10 Noxious weeds—Control boards.
17.12 Agricultural pest districts.
17.24 Insect pests and plant diseases.

Chapter 17.08 WEED EXTERMINATION AREAS

Sections

17.08.020 Weed extermination areas—Petition and procedure to establish—Duration of area.

17.08.020 Weed extermination areas—Petition and procedure to establish—Duration of area. Upon petition of registered land owners representing not less than five percent of the number of farms in the county as shown by the last United States census, the boards of county commissioners of the respective counties and the director of the state department of agriculture shall thoroughly investigate, which investigation shall include a public hearing, notice of which shall be posted under the direction of the director of the state department of agriculture, in at least five conspicuous places within the posted area at least fifteen days prior to the hearing. If such investigation shall indicate a need therefor there shall be created, by a regularly promulgated order, a weed extermination area or areas, within their counties or within the state of Washington for the purpose of destroying, preventing, and exterminating any particular weed, weeds or plants, or all weeds or plants, which are now or may hereafter be classed by the agricultural experiment station of Washington State University as

noxious or poison weeds or plants detrimental to agriculture or to livestock, when the boards of county commissioners and the director of the department of agriculture of the state of Washington find the creation of such an area and the extermination of noxious or poison weeds or plants growing thereon to be in the interest of the general public welfare of their respective counties or of the state of Washington, and when such investigation shows that conditions are such as to prevent the organization of a weed district in the manner prescribed in RCW 17.04.010 through 17.04.070, 17.04.240 and 17.04.250. If the boards of county commissioners and the director of the state department of agriculture cannot agree on the establishment or in other matters pertaining to weed extermination areas, the decision of the director shall be final. Upon the establishing of any weed extermination area or areas as provided in this section, the boards of county commissioners and the director of the state department of agriculture shall cause this fact to be published in a newspaper published in the county in which such weed extermination area is situated and of general circulation in such county and such notice shall state the boundaries of the weed extermination area so established. A weed extermination area when established as provided herein shall be maintained as such for a period of not less than five years. Any weed district organized or reorganized as provided in RCW 17.04.010 through 17.04.070, 17.04.240 and 17.04.250 is hereby authorized to maintain its status and organization and to exercise all powers and subject to the limitations granted to it in prior sections of this chapter, even when part or all of such weed district is also included in a weed extermination area. [1977 1st ex.s. c 169 § 3; 1937 c 194 § 2; RRS § 2778-12. Formerly RCW 17.08.020, 17.08.030 and 17.08.040.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Chapter 17.10 NOXIOUS WEEDS—CONTROL BOARDS

Sections

17.10.050 Activated county noxious weed control board—Members—Election—Meetings—Quorum—Expenses—Officers—Vacancy.

17.10.050 Activated county noxious weed control board—Members—Election—Meetings—Quorum—Expenses—Officers—Vacancy. (1) Each activated county noxious weed control board shall consist of five voting members who shall, at the board's inception, be appointed by the county legislative authority and elected thereafter by the property owners subject to the board. In appointing such voting members, the county legislative authority shall divide the county into five sections, none of which shall overlap and each of which shall be of the same approximate area, and shall appoint a voting member from each section. At least four of such voting members shall be engaged in the primary production of agricultural products. There shall be one nonvoting member on such board who shall be the chief county extension agent or an extension agent

appointed by the chief county extension agent. Each voting member of the board shall serve a term of two years, except that the county legislative authority shall, when a board is first activated under this chapter, designate two voting members to serve terms of one year. The board members shall not receive a salary but shall be compensated for actual and necessary expenses incurred in the performance of their official duties.

(2) The elected members of the board shall represent the same districts designated by the county legislative authority in appointing members to the board at its inception. Members of the board shall be elected at least thirty days prior to the expiration of any board member's term of office.

The nomination and election of elected board members shall be conducted by the board at a public meeting held in the section where board memberships are about to expire. Elections at such meetings shall be by secret ballot, cast by the landowners residing in the section where an election for a board member is being conducted. The nominee receiving the majority of votes cast shall be deemed elected, and if there is only one nomination, said nominee shall be deemed elected unanimously.

Notice of such nomination and election meeting shall be published at least twice in a weekly or daily newspaper of general circulation in said section with last publication occurring at least ten days prior to the meeting.

(3) Within thirty days after all the members have been appointed, the board shall conduct its first meeting. A majority of the voting members of the board shall constitute a quorum for the transaction of business and shall be necessary for any action taken by the board. The board shall elect from its members a chairman and such other officers as may be necessary.

(4) In case of a vacancy occurring in any elected position on a county noxious weed control board, the county legislative authority of the county in which such board is located shall appoint a qualified person to fill the vacancy for the unexpired term. [1977 1st ex.s. c 26 § 6; 1975 1st ex.s. c 13 § 3; 1974 ex.s. c 143 § 1; 1969 ex.s. c 113 § 5.]

Chapter 17.12

AGRICULTURAL PEST DISTRICTS

Sections

17.12.060 Supervision of the district.

17.12.060 Supervision of the district. The agricultural expert in counties having an agricultural expert, shall under the direction of Washington State University have general supervision of the methods and means of preventing, destroying or exterminating any animals or rodents as herein mentioned within his county, and of how the funds of any pest district shall be expended to best accomplish the purposes for which such funds were raised; in counties having no such agricultural expert each county commissioner shall be within his respective commissioner district, ex officio supervisor, or the board may designate some such person to so act, and shall fix

his compensation therefor. Whenever any member of the board shall act as supervisor he shall be entitled to his actual expenses and his per diem as county commissioner the same as if he were doing other county business. [1977 1st ex.s. c 169 § 4; 1919 c 152 § 6; RRS § 2806.]

Reviser's note: The law authorizing the employment of agricultural experts was 1913 c 18 as amended by 1919 c 193 but since repealed by 1949 c 181 which authorizes cooperative extension work in agriculture and home economics. See RCW 36.50.010.

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Chapter 17.24

INSECT PESTS AND PLANT DISEASES

Sections

PEST AND DISEASE CONTROL—1947 ACT

17.24.110 Director's cooperation with other agencies.

PEST AND DISEASE CONTROL—1947 ACT

17.24.110 Director's cooperation with other agencies. The director of agriculture and the supervisor of horticulture are authorized to cooperate with any individual, group of citizens, municipalities and counties of the state of Washington, Washington State University or any of its experiment stations, and/or with the secretary of agriculture of the United States and such agencies as the secretary may designate, and/or with any other state or states, agency or group the director of agriculture may designate, to carry out the provisions of RCW 17.24.105 through 17.24.140. [1977 1st ex.s. c 169 § 5; 1947 c 156 § 2; Rem. Supp. 1947 § 2809–2. Prior: 1945 c 9 § 2.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Title 18

BUSINESSES AND PROFESSIONS

Chapters

18.04 Accountancy.
 18.18 Cosmetology.
 18.27 Registration of contractors.
 18.28 Debt adjusting.
 18.32 Dentistry.
 18.39 Embalmers—Funeral directors.
 18.43 Engineers and land surveyors.
 18.44 Escrow agent registration act.
 18.51 Nursing homes.
 18.52 Nursing home administrators.
 18.57A Osteopathic physicians' assistants.
 18.64A Pharmacy assistants.
 18.71 Physicians.
 18.71A Physicians' assistants.
 18.72 Medical disciplinary board.
 18.74 Physical therapy.
 18.82 Proprietary schools.

18.83	Psychologists.
18.85	Real estate brokers and salesmen.
18.88	Registered nurses.
18.106	Plumbers.

Chapter 18.04 ACCOUNTANCY

Sections

18.04.100	Publication of register.
18.04.110	Repealed.
18.04.210	Repealed.
18.04.230	Repealed.

18.04.100 Publication of register. The board may periodically publish a register of all persons holding permits to practice the profession of public accounting in this state. [1977 c 75 § 8; 1949 c 226 § 9; Rem. Supp. 1949 § 8269-16.]

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

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

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

Chapter 18.18 COSMETOLOGY

Sections

18.18.140	Licenses—Renewal—Fees.
18.18.251	Hearing board.
18.18.260	Unlawful practices and omissions.

18.18.140 Licenses—Renewal—Fees. Operator, manicurist, instructor operator, manager operator, shop, or school licenses may be renewed from year to year upon the payment on or before the first day of each July following their issuance, of a renewal fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended.

Any manicurist, operator, manager operator, or instructor operator whose license has lapsed may have the same renewed upon payment of all fees which the applicant would have been required to pay to keep such license in effect, and an additional fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended for each lapsed year: *Provided*, That any person whose license has lapsed for more than three years shall be reexamined, as in the case of any applicant for an original license. [1977 1st ex.s. c 310 § 2; 1975 1st ex.s. c 30 § 15; 1973 1st ex.s. c 148 § 27; 1971 ex.s. c 266 § 3; 1965 ex.s. c 3 § 11; 1959 c 324 § 5; 1955 c 313 § 6; 1951 c 180 § 7. Prior: (i) 1937 c 215 § 10(b); RRS § 8278-10(b). (ii) 1937 c 215 § 11; RRS § 8278-11.]

18.18.251 Hearing board. A hearing board is hereby established and shall consist of three members to

be appointed by the governor in the following manner: One member qualified by at least six years' experience in the cosmetology industry for a six year term; one member from licensed Washington state cosmetology schools for a four year term; and one member who is unaffiliated with any of the foregoing associations for a two year term. Thereafter the terms of the members shall be for six years and until their successors are appointed and qualified. The governor shall fill any vacancy on the board within ninety days after it occurs by an appointment for the remainder of the unexpired term.

The board shall select one of its members as its chairman. Meetings shall be held as often as shall be necessary for the board to perform its duties. All members shall be present before business may be transacted. The director of licenses [licensing] shall exercise direct supervision over the board's activities and the board shall file such periodic and special reports with the director outlining its activities as the director may require.

Each member of the board shall receive as compensation for his attendance at hearings or other proper meetings thirty-five dollars for each day or part of a day's attendance and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended: *Provided, however*, That all compensation and travel expenses shall come from the license and application fees collected pursuant to this chapter. [1977 c 75 § 9; 1975-'76 2nd ex.s. c 34 § 31; 1965 ex.s. c 3 § 14.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

18.18.260 Unlawful practices and omissions. No person shall engage in the practice of hairdressing or cosmetology in any place other than a licensed hairdressing or cosmetology shop or school, except in case of his or her own family or in case of a customer whose physical condition prevents his or her presence at a shop or school.

No person shall use for residential purposes any room that is used wholly or in part as a hairdressing or cosmetology school or shop, except that these restrictions shall not apply to toilet facilities which may be used jointly for residential and business purposes.

Every hairdressing or cosmetology shop shall maintain an outside entrance separate from the entrances to rooms used for sleeping or residential purposes.

From and after July 1, 1959 every hairdressing or cosmetology shop shall provide and maintain for the use of the customers adequate toilet facilities located within the shop or adjacent thereto.

No hairdressing or cosmetology shop shall be operated unless it is under the direct supervision of a licensed manager operator.

No person other than a licensed manicurist or a licensed operator in demonstrating or instructing in the use of any cosmetics or supplies of any kind, shall engage in any of the acts enumerated in RCW 18.18.010.

No student shall engage in the practice of hairdressing or cosmetology except in a licensed school under the direct supervision of a licensed instructor operator. [1977 1st ex.s. c 310 § 1; 1973 1st ex.s. c 148 § 29; 1965 ex.s. c 3 § 17; 1959 c 324 § 9; 1957 c 52 § 11. Prior: 1937 c 215 § 17 (a), (d), (e), (f); RRS § 8278-17 (a), (d), (e), (f).]

Chapter 18.27

REGISTRATION OF CONTRACTORS

Sections

18.27.040	Bond or other security required—Actions against—Suspension of registration upon impairment.
18.27.060	Certificate of registration—Issuance, duration, renewal.
18.27.070	Registration and renewal fees.

18.27.040 Bond or other security required—Actions against—Suspension of registration upon impairment. Each applicant shall, at the time of applying for a certificate of registration, file with the department a surety bond issued by a surety insurer who meets the requirements of chapter 48.28 RCW in a form acceptable to the department running to the state of Washington if a general contractor, in the sum of four thousand dollars; if a specialty contractor, in the sum of two thousand dollars, conditioned that the applicant will pay all persons performing labor, including employee benefits, for the contractor, will pay all taxes and contributions due to the state of Washington, and will pay all persons furnishing labor or material or renting or supplying equipment to the contractor and will pay all amounts that may be adjudged against the contractor by reason of negligent or improper work or breach of contract in the conduct of the contracting business. Any registered contractor with an unimpaired bond in effect on the day immediately preceding September 21, 1977, is hereby authorized to maintain such bond until the next annual renewal of such bond at which time the terms of *this 1977 amendatory act must be complied with: *Provided*, That a change in the name of a business or a change in the type of business entity shall not impair a bond for the purposes of this section so long as one of the original applicants for such bond maintains partial ownership in the business covered by the bond. Any person having a claim against the contractor for any of the items referred to in this section may bring suit upon such bond in the superior court of the county in which the work is done or of any county in which jurisdiction of the contractor may be had. Action upon such bond or deposit shall be commenced by serving and filing of the complaint within one year from the date of expiration of the certificate of registration in force at the time the claimed labor was performed and benefits accrued, taxes and contributions owing the state of Washington became due, materials and equipment were furnished, or the claimed contract work was completed. Three copies of the complaint shall be served by registered or certified mail upon the department at the time suit is started and the department shall maintain a

record, available for public inspection, of all suits so commenced. Such service shall constitute service on the registrant and the surety for suit upon the bond and the department shall transmit the complaint or a copy thereof to the registrant at the address listed in his application and to the surety within forty-eight hours after it shall have been received. The surety upon the bond shall not be liable in an aggregate amount in excess of the amount named in the bond. The surety upon the bond may, upon notice to the department and the parties, tender to the clerk of the court having jurisdiction of the action an amount equal to the claims thereunder or the amount of the bond less the amount of judgments, if any, previously satisfied therefrom and to the extent of such tender the surety upon the bond shall be exonerated but if the actions commenced and pending at any one time exceed the amount of the bond then unimpaired, claims shall be satisfied from the bond in the following order:

- (1) Labor, including employee benefits;
- (2) Claims for breach of contract by a party to the construction contract;
- (3) Material and equipment;
- (4) Taxes and contributions due the state of Washington;
- (5) Any court costs, interest, and attorney's fees plaintiff may be entitled to recover.

In the event that any final judgment shall impair the liability of the surety upon the bond so furnished that there shall not be in effect a bond undertaking in the full amount prescribed in this section, the department shall suspend the registration of such contractor until the bond liability in the required amount unimpaired by unsatisfied judgment claims shall have been furnished. If such bond becomes fully impaired, a new bond must be furnished at the increased rates prescribed by this section as now or hereafter amended.

In lieu of the surety bond required by this section the contractor may file with the department a deposit consisting of cash or other security acceptable to the department.

Any person having an unsatisfied final judgment against the registrant for any items referred to in this section may execute upon the security held by the department by serving a certified copy of the unsatisfied final judgment by registered or certified mail upon the department within one year of the date of entry of such judgment. Upon the receipt of service of such certified copy the department shall pay or order paid from the deposit, through the registry of the superior court which rendered judgment, towards the amount of the unsatisfied judgment. The priority of payment by the department shall be the order of receipt by the department, but the department shall have no liability for payment in excess of the amount of the deposit.

The director may promulgate rules and regulations necessary for the proper administration of the security. [1977 1st ex.s. c 11 § 1; 1973 1st ex.s. c 153 § 4; 1972 ex.s. c 118 § 2; 1967 c 126 § 1; 1963 c 77 § 4.]

* Reviser's note: "this 1977 amendatory act" consisted of the amendment to this section by 1977 1st ex.s. c 11 § 1.

Unpaid wages by public works contractor constitute lien against bond: RCW 39.12.050.

18.27.060 Certificate of registration—Issuance, duration, renewal. A certificate of registration shall be valid for one year and shall be renewed on or before the expiration date. The director shall issue to the applicant a certificate of registration upon compliance with the registration requirements of this chapter. [1977 1st ex.s. c 61 § 1; 1963 c 77 § 6.]

18.27.070 Registration and renewal fees. The applicant shall pay to the director a registration or renewal fee of, if a general contractor, or if a specialty contractor, twenty dollars. [1977 1st ex.s. c 66 § 1; 1973 1st ex.s. c 153 § 5; 1967 c 126 § 2; 1963 c 77 § 7.]

Effective date—1977 1st ex.s. c 66: "This 1977 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, 1977." [1977 1st ex.s. c 66 § 2.] This applies to the 1977 1st ex.s. amendment to RCW 18.27.070.

Chapter 18.28 DEBT ADJUSTING

Sections

18.28.010 through 18.28.910 Repealed. (Effective June 30, 1979.)

18.28.010 through 18.28.910 Repealed. (Effective June 30, 1979.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 18.32 DENTISTRY

Sections

18.32.060 Repealed.
18.32.080 Enforcement provisions—Certificate of director or county auditor as evidence.
18.32.230 Refusal of license—Hearing before disciplinary board.
18.32.240 through 18.32.280 Repealed.
18.32.350 Unlawful practice—Employing unlicensed dentist—Penalty.
18.32.380 Enforcement provisions—Injunctions.
DENTAL DISCIPLINARY BOARD ACT
18.32.500 Short title.
18.32.510 Legislative declaration.
18.32.520 Definitions.
18.32.530 Unprofessional conduct.
18.32.540 Obligation to cooperate with board—Failure deemed unprofessional conduct.
18.32.550 Suspension of dentist's license for mental incompetency or illness, physical condition, etc.—Procedure—Examination—Reinstatement.
18.32.560 Board created—Composition—Attorney general as legal counsel.
18.32.570 Appointment of board members—Terms.
18.32.580 Vacancies.
18.32.590 Removal of members.
18.32.600 Compensation and reimbursement of members.
18.32.610 Territorial scope of operations.
18.32.620 Officers—Meetings—Quorum.
18.32.630 Immunity from suit.

18.32.640 Powers and duties.
18.32.650 Complaint of unprofessional conduct—Hearing.
18.32.660 Specification of charges—Preparation—Service upon accused—Notice of hearing.
18.32.670 Time, notice, of hearing.
18.32.680 Procedures governing hearings.
18.32.690 Decision of board—Procedures upon finding of guilty or not guilty.
18.32.700 Revocation or suspension of license—Appeal—Stay pending review.
18.32.710 Contents of certificate or order of revocation or suspension—Retention.
18.32.720 Conditions for issuance of license after revocation or suspension.
18.32.730 Appeal from decision of board—How initiated.
18.32.740 Appeal from decision of board—Transmittal of record, findings.
18.32.750 Appeal from decision of board—Findings final and conclusive—Scope of review.
18.32.760 Appeal from decision of board—Appeal procedure—Appeal to higher court.
18.32.770 Review when certificate or order of revocation or suspension not timely filed.
18.32.780 Application for reinstatement of license—Procedure.
18.32.915 Severability—1977 1st ex.s. c 5.

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

18.32.080 Enforcement provisions—Certificate of director or county auditor as evidence. The said director is charged with the duty of enforcing this chapter and it shall be the duty of any prosecuting attorney on the complaint of the director, the state board of dental examiners, the dental disciplinary board, or of any member of either board to prosecute any violation of this chapter. The certificate of the county auditor of the county in which any such proceeding shall be pending and/or the certificate of said director certifying in substance to the facts shown of record in their respective offices, or of the facts that no license required by this chapter has been issued, registered or renewed, shall be prima facie evidence in such proceeding of the truth of such certificate. [1977 1st ex.s. c 5 § 29; 1935 c 112 § 22; RRS § 10031-22. Formerly RCW 18.32.080 and 18.32.370.]

18.32.230 Refusal of license—Hearing before disciplinary board. The director shall refuse to issue the license provided for in this chapter to any individual who is guilty of unprofessional conduct as defined in RCW 18.32.530.

Upon refusal of a license upon the ground of unprofessional conduct, the applicant may apply for a hearing before the dental disciplinary board. Such hearing shall be governed by the procedure set forth in this chapter and the applicant shall have all the rights accorded to an accused license holder, including the right to appeal from an adverse decision. In case of the refusal of a license by the dental disciplinary board, said board shall file a brief and concise statement of the grounds and reasons therefor in the office of the director which, together with the decision of the hearing committee of the dental disciplinary board, in writing, shall remain of record therein. [1977 1st ex.s. c 5 § 30; 1935 c 112 § 8; RRS § 10031-8.]

18.32.240 through 18.32.280 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

18.32.350 Unlawful practice—Employing unlicensed dentist—Penalty. No manager, proprietor, partnership, or association owning, operating, or controlling any room, office, or dental parlors, where dental work is done, provided, or contracted for, shall employ or retain any unlicensed person or dentist as an operator; nor shall fail, within ten days after demand made by the director, the state board of dental examiners, or the dental disciplinary board in writing sent by certified mail, addressed to any such manager, proprietor, partnership, or association at said room, office, or dental parlor, to furnish the director, the state board of dental examiners, or the dental disciplinary board with the names and addresses of all persons practicing or assisting in the practice of dentistry in his place of business or under his control, together with a sworn statement showing by what license or authority said persons are practicing dentistry.

The sworn statement shall not be used as evidence in any subsequent court proceedings, except in a prosecution for perjury connected with its execution.

Any violation of the provisions of this section shall constitute improper, unprofessional, and dishonorable conduct; it shall also constitute grounds for injunction proceedings as provided by this chapter and in addition shall constitute a gross misdemeanor, except that the failure to furnish the information as may be requested in accordance with this section shall constitute a misdemeanor. [1977 1st ex.s. c 5 § 31; 1957 c 52 § 38; 1953 c 93 § 7. Prior: 1937 c 45 § 1, part; 1935 c 112 § 18, part; RRS § 10031-18, part.]

18.32.380 Enforcement provisions—Injunctions. The attorney general, each prosecuting attorney, the director, the state board of dental examiners, the dental disciplinary board, or any citizen of any county where any person shall engage in the practice of dentistry as herein defined without possessing a valid license so to do, may in accordance with the laws of this state governing injunctions, maintain an action in the name of this state to enjoin such person from engaging in the practice of dentistry as herein defined until a valid license to practice dentistry be secured: *Provided, however,* That such injunction shall not relieve such person so practicing dentistry without a valid license from criminal prosecution therefor, but such remedy by injunction shall be in addition to the liability of such offender to criminal prosecution. [1977 1st ex.s. c 5 § 32; 1935 c 112 § 23; RRS § 10031-23.]

Injunctions: Chapter 7.40 RCW.

DENTAL DISCIPLINARY BOARD ACT

18.32.500 Short title. RCW 18.32.510 through 18.32.780 shall be known and may be cited as the "Dental Disciplinary Board Act". [1977 1st ex.s. c 5 § 37.]

18.32.510 Legislative declaration. The legislature finds that the health and well-being of the people of this state are of paramount importance.

The legislature further finds that the conduct of members of the dental profession licensed to practice dentistry in this state plays a vital role in preserving the health and well-being of the people of the state.

The legislature further finds that there is no effective means of handling disciplinary proceedings against members of the dental profession licensed in this state when such proceedings are necessary for the protection of the public health.

Therefore, the legislature declares its intention to exercise the police power of the state to protect the public health, to promote the welfare of the state, and to provide a dental disciplinary board to act as a disciplinary body for the members of the dental profession licensed to practice dentistry in this state. [1977 1st ex.s. c 5 § 1.]

18.32.520 Definitions. Unless the context clearly requires otherwise, the definitions contained in this section shall apply throughout RCW 18.32.510, and 18.32.530 through 18.32.780.

(1) "Board" means the dental disciplinary board created in RCW 18.32.560.

(2) "License" means a certificate or license to practice dentistry in this state as provided for in this chapter.

(3) "Member" means member of the dental disciplinary board.

(4) "Secretary" means the secretary of the dental disciplinary board.

(5) "Director" means the director of motor vehicles of the state of Washington.

(6) "To practice dentistry" means to engage in the practice of dentistry as defined in RCW 18.32.020. [1977 1st ex.s. c 5 § 2.]

Reviser's note: The "director of motor vehicles" redesignated the "director of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

18.32.530 Unprofessional conduct. The term "unprofessional conduct" as used in RCW 18.32.530 through 18.32.780 and in RCW 18.32.230 as now or hereafter amended shall mean any one of the following items or any combination thereof:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption, which act relates to a person's fitness to practice dentistry; and if the act constitutes a crime, conviction thereof in a criminal proceeding shall not be a condition precedent to disciplinary action. Upon conviction, however, the judgment and sentence shall be conclusive evidence at an ensuing disciplinary hearing of the guilt of the respondent dentist of the crime described in the indictment or information, and of said respondent dentist's violation of the statute upon which it is based: *Provided,* That nothing herein shall be construed to affect or alter the provisions of RCW 9.96A.020;

(2) Making any misrepresentation or false promise directly or indirectly to influence, persuade or induce dental patronage, or engaging in any other improper,

unprofessional, or dishonorable conduct in the practice of dentistry;

(3) Misrepresentation or concealment of a material fact in the obtaining of a license to practice dentistry or in the reinstatement of such license;

(4) Division of fees or agreeing to split or divide the fees received for dental services with any person for bringing or referring a patient, or for assisting in the care or treatment of a patient, without the knowledge of said patient or the patient's legal representative;

(5) Employing, procuring, inducing, aiding, or abetting a person not licensed or registered as a dentist to engage in the practice of dentistry. The person practiced upon shall not be deemed an accomplice, employer, procurer, inducer, aider, or abettor within the meaning of RCW 18.32.530 through 18.32.780;

(6) Professional connection or association with or lending a dentist's name to another for the illegal practice of dentistry by another, or professional connection or association with any person, firm or corporation holding itself out in any manner contrary to this chapter;

(7) The impersonation of another licensed practitioner;

(8) Suspension or revocation of the dentist's license to practice dentistry by competent authority in any state, federal, or foreign jurisdiction;

(9) Gross incompetency in the practice of dentistry;

(10) Gross, wilful and continued overcharging for professional services;

(11) Wilful or repeated violations of lawful rules established by any health officer of the state or any municipal corporation or division thereof;

(12) Habitual intoxication or addiction to the use of controlled substances;

(13) The possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for therapeutic purposes or in violation of law;

(14) Any conduct in violation of this chapter;

(15) Wilful violation of RCW 18.32.540 or wilful disregard of a subpoena or notice of the dental disciplinary board. [1977 1st ex.s. c 5 § 3.]

18.32.540 Obligation to cooperate with board—Failure deemed unprofessional conduct. It shall be the duty and obligation of a dentist against whom a complaint is made and who is being investigated by the dental disciplinary board to cooperate with the board as requested by it by:

(1) Furnishing any papers or documents;

(2) Furnishing in writing a full and complete explanation covering the matter contained in such complaint;

(3) Appearing before the board at the time and place designated.

Should such dentist fail to cooperate with the board in the manner provided for in this section, such conduct shall be deemed to be unprofessional conduct. [1977 1st ex.s. c 5 § 4.]

18.32.550 Suspension of dentist's license for mental incompetency or illness, physical condition, etc.—Procedure—Examination—Reinstatement. (1) In

the event that a dentist is determined by a court of competent jurisdiction to be mentally incompetent or mentally ill, said dentist's license shall be suspended automatically by the dental disciplinary board upon entry of the court's decree or judgment, regardless of the pendency of an appeal.

(2) If it appears to the dental disciplinary board that there is reasonable cause to believe that a dentist who has not been judicially determined to be mentally incompetent or mentally ill is unable to practice dentistry with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of controlled substances, chemicals, or any other type of material, or as a result of any mental or physical condition, a complaint in the name of the board shall be served upon such dentist for a hearing on the sole issue of the capacity of the dentist to adequately conduct practice. In enforcing this subsection the board shall, upon probable cause, have authority to compel a dentist to submit to a mental or physical examination by two or more physicians designated by the board and at least one of whom may be chosen by the charged party. Failure of a dentist to submit to such examination when directed constitutes grounds for immediate suspension of such dentist's license, unless the failure was due to circumstances beyond the dentist's control, and as a result of such refusal a default and final order may be entered without the taking of testimony or presentation of evidence. A dentist affected under this subsection shall at reasonable intervals be afforded an opportunity by the board to demonstrate that said dentist can resume the competent practice of dentistry with reasonable skill and safety to patients.

For the purpose of this subsection, every dentist licensed under this chapter who shall accept the privilege to practice dentistry in this state shall by so practicing or by the making and filing of annual registration to practice dentistry in this state, be deemed to have given consent to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining physicians' testimony or examination reports on the ground that the same constitute a privileged communication.

In any proceeding under this subsection, neither the record of proceedings nor the orders entered by the board shall be used against a dentist in any other proceeding. [1977 1st ex.s. c 5 § 5.]

18.32.560 Board created—Composition—Attorney general as legal counsel. There is hereby created the Washington state dental disciplinary board, which shall be composed of five members, each of whom shall be a resident of this state engaged in the active practice of dentistry and who shall have been licensed to practice dentistry in this state for a period of five years or more prior to appointment to the board. Of the five members appointed to the board, two members shall reside and engage in the active practice of dentistry east of the summit of the Cascade range and the other three members shall reside and engage in the active practice of dentistry west of the summit of the Cascade range.

The attorney general shall be counsel to the board and shall represent it in all legal proceedings. [1977 1st ex.s. c 5 § 6.]

18.32.570 Appointment of board members—

Terms. Members of the board shall be appointed by the governor from among the holders of licenses to practice dentistry residing in this state and shall hold office until their successors are appointed and qualified. The members of the first board shall serve for the following terms: Two members for two years, two members for four years, and one member for six years. Thereafter members of the board shall be appointed to terms of six years. The position of the members first appointed for the term of four years shall be held in such first term and in successive terms by the members residing east of the Cascade summit. The terms of office of members shall commence on October 1st. [1977 1st ex.s. c 5 § 7.]

18.32.580 Vacancies. Vacancies in the board shall be filled by the governor and a member appointed to fill a vacancy on the board shall serve for the balance of the unexpired term of the position to which said member was appointed and until the successor is appointed and takes office. [1977 1st ex.s. c 5 § 8.]

18.32.590 Removal of members. Any member of the board may be removed by the governor for neglect of duty, misconduct, or malfeasance or misfeasance in office. Whenever the governor is satisfied that any member of the board has been guilty of neglect of duty, misconduct, or malfeasance or misfeasance in office, the governor shall file with the secretary of state a statement showing the governor's reasons, with the order of removal, and the secretary of state shall forthwith send a certified copy of such order of removal and statement of causes by registered mail to the last known post office address of the member in question. [1977 1st ex.s. c 5 § 9.]

18.32.600 Compensation and reimbursement of members. Members of the board shall be paid thirty-five dollars per day for time spent in performing their duties as members of the board and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now or hereafter amended while engaged in business of the board. [1977 1st ex.s. c 5 § 10.]

18.32.610 Territorial scope of operations. The board may meet, function, and exercise its powers at any geographical location within the state. [1977 1st ex.s. c 5 § 11.]

18.32.620 Officers—Meetings—Quorum. The board shall elect from its members a chairman, vice chairman, and secretary, who shall serve for one year and until their successors are elected and qualified. The board shall meet at least once a year or upon the call of the chairman at such times and places as the chairman shall designate. Three members shall constitute a quorum to transact business. [1977 1st ex.s. c 5 § 12.]

18.32.630 Immunity from suit. Members of the board shall be immune from suit in any action, civil or criminal, based upon any disciplinary proceedings or other official acts performed in good faith as members of such board. [1977 1st ex.s. c 5 § 13.]

18.32.640 Powers and duties. The board shall have the following powers and duties:

(1) To adopt, amend and rescind such rules as it deems necessary to carry out the provisions of RCW 18.32.510, and 18.32.530 through 18.32.780;

(2) To investigate all complaints and charges of unprofessional conduct against any holder of a license and to hold hearings to determine whether or not such charges can be substantiated;

(3) To employ necessary stenographic or clerical help under the provisions of chapter 41.06 RCW;

(4) To issue subpoenas and administer oaths in connection with any investigation, hearing, or disciplinary proceeding;

(5) To take or cause depositions to be taken as needed in any investigation, hearing, or proceeding;

(6) To investigate complaints and charges of malpractice, unsafe conditions and practices, and to analyze equipment, procedures, and training, in such cases, and to direct corrective action. [1977 1st ex.s. c 5 § 14.]

18.32.650 Complaint of unprofessional conduct—Hearing. Any person, firm, corporation, or public officer may submit a written complaint to the secretary charging the holder of a license to practice dentistry with unprofessional conduct, specifying the grounds therefor. If the board determines that such complaint merits consideration, or if the board shall have reason to believe, without a formal complaint, that any holder of a license has been guilty of unprofessional conduct, the board may order that a hearing be held. [1977 1st ex.s. c 5 § 15.]

18.32.660 Specification of charges—Preparation—Service upon accused—Notice of hearing. When a hearing is ordered by the board, the secretary shall prepare a specification of the charge or charges of unprofessional conduct made against a license holder, a copy of which shall be served upon the accused, together with a notice of the hearing, as provided in RCW 18.32.670. [1977 1st ex.s. c 5 § 16.]

18.32.670 Time, notice, of hearing. The time of hearing shall be fixed by the secretary as soon as convenient, but not earlier than thirty days after service of the charges upon the accused. The secretary shall issue a notice of hearing of the charges, which notice shall specify the time and place of hearing and shall notify the accused that he may file with the secretary a written response within twenty days of the date of service. Such notice shall also notify the accused that a stenographic record of the proceeding will be kept, that the accused shall have the opportunity to appear personally and to have counsel present, with the right to produce witnesses and evidence, to cross-examine witnesses testifying against the accused, to examine witnesses testifying for

the accused, to examine such documentary evidence as may be produced against the accused, and to have subpoenas issued by the board. [1977 1st ex.s. c 5 § 17.]

18.32.680 Procedures governing hearings. The procedures governing contested cases before agencies under chapter 34.04 RCW shall govern all hearings before the board, insofar as applicable and to the extent such procedures are not inconsistent with the procedures prescribed in RCW 18.32.530 through 18.32.780; and the board shall have, in addition to the powers and duties set forth in RCW 18.32.530 through 18.32.780, all of the powers and duties granted to, or imposed upon, an agency by the provisions of chapter 34.04 RCW, which shall include, without limitation, all powers relating to the administration of oaths, the receipt of evidence, the issuance and enforcing of subpoenas, and the taking of depositions. [1977 1st ex.s. c 5 § 18.]

18.32.690 Decision of board—Procedures upon finding of guilty or not guilty. Within a reasonable time after holding a hearing under the provisions of RCW 18.32.530 through 18.32.780, the board shall render its decision. If a majority of the members of the board vote in favor of finding the accused guilty of unprofessional conduct as specified in the charges, or any of them, the board shall prepare written findings of fact and may thereafter prepare and file in the office of the director a certificate or order of revocation or suspension of the license to practice, in which case a copy thereof shall be served upon the accused, or the board may reprimand the accused, as it deems most appropriate. If the license holder is found not guilty, or if less than a majority of the members vote for a finding of guilty, the board shall forthwith order a dismissal of the charges and the exoneration of the accused. When a proceeding has been dismissed, either on the merits or otherwise, the board shall relieve the accused from any possible odium that may attach by reason of the charges made against the accused by such public exoneration as is necessary, if requested by the accused to do so. [1977 1st ex.s. c 5 § 19.]

18.32.700 Revocation or suspension of license—Appeal—Stay pending review. The filing by the board in the office of the director of a certificate or order of revocation or suspension after due notice, hearing, and findings in accordance with the procedure specified in RCW 18.32.530 through 18.32.780, certifying that any holder of a license has been found guilty of unprofessional conduct by the board, shall constitute a revocation or suspension of the license to practice dentistry in this state in accordance with the terms and conditions imposed by the board and embodied in the certificate or order of revocation or suspension. Such certificate or order of revocation or suspension, if appealed, may be stayed by the board or by the reviewing court upon such terms as are deemed proper. [1977 1st ex.s. c 5 § 20.]

18.32.710 Contents of certificate or order of revocation or suspension—Retention. The certificate or order of revocation or suspension shall contain a brief

and concise statement of the ground or grounds upon which the certificate or order is based and the specific terms and conditions of such revocation or suspension, and shall be retained as a permanent record by the director. [1977 1st ex.s. c 5 § 21.]

18.32.720 Conditions for issuance of license after revocation or suspension. The director shall not issue any license or any renewal thereof to any person whose license has been revoked or suspended by the board except in conformity with the terms and conditions of the certificate or order of revocation or suspension, or in conformity with any order of reinstatement issued by the board, or in accordance with the final judgment in any proceeding for review instituted under the provisions of RCW 18.32.530 through 18.32.780. [1977 1st ex.s. c 5 § 22.]

18.32.730 Appeal from decision of board—How initiated. Any person whose license has been revoked or suspended by the board shall have the right to a judicial review of the board's decision. Such review shall be initiated by serving on the secretary a notice of appeal and filing such notice of appeal either in the superior court of Thurston county, or in the superior court of the county in which the appellant resides, within thirty days after the filing of the certificate or order of revocation or suspension in the office of the director. [1977 1st ex.s. c 5 § 23.]

18.32.740 Appeal from decision of board—Transmittal of record, findings. The secretary shall, within twenty days after the service of the notice of appeal, transmit to the clerk of the superior court to which the appeal is taken a transcript of the record before the board, certified under the seal of the board, together with a certified copy of the board's written findings. [1977 1st ex.s. c 5 § 24.]

18.32.750 Appeal from decision of board—Findings final and conclusive—Scope of review. The findings of the board, if supported by the preponderance of evidence, shall be final and conclusive. The review in the superior court shall be limited to determining whether the findings of the board are supported by the preponderance of evidence and whether the proceedings of the board were erroneous as a matter of law, or in violation of due process, or so arbitrary or capricious as to amount to an abuse of discretion, or contrary to any constitutional right, power, privilege, or immunity. [1977 1st ex.s. c 5 § 25.]

18.32.760 Appeal from decision of board—Appeal procedure—Appeal to higher court. The procedure governing appeals to the superior court by those provisions of chapter 34.04 RCW relating to contested cases, shall govern in matters of appeal from a decision of the board, insofar as applicable and to the extent such procedure is not inconsistent with the type of appeal provided in RCW 18.32.530 through 18.32.780. The accused may secure a review of any final judgment of the superior court by appeal to the court of appeals or

the supreme court as provided in other civil cases. [1977 1st ex.s. c 5 § 26.]

18.32.770 Review when certificate or order of revocation or suspension not timely filed. If the board finds the holder of any license guilty of unprofessional conduct and fails to file a certificate or order of revocation or suspension in the office of the director within thirty days, the license holder shall have the right to a judicial review of such finding of the board in the same manner and to the same extent as if the certificate or order had been filed. [1977 1st ex.s. c 5 § 27.]

18.32.780 Application for reinstatement of license—Procedure. Any person whose license has been suspended or revoked under the provisions of RCW 18.32.530 through 18.32.780 may apply to the board for reinstatement at any time and the board may hold hearings on any such petition and may order reinstatement and impose terms and conditions thereof and issue a certificate of reinstatement to the director. [1977 1st ex.s. c 5 § 28.]

18.32.915 Severability—1977 1st ex.s. c 5. If any provision of this 1977 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. [1977 1st ex.s. c 5 § 36.]

Chapter 18.39

EMBALMERS—FUNERAL DIRECTORS

Sections

18.39.010	Definitions.
18.39.145	Funeral establishment license—Issuance—Requirements—Transferability.
18.39.148	Funeral establishment license—Cancellation for not having funeral director or embalmer in employ—Exception.
18.39.173	Board of funeral directors and embalmers—Established—Membership—Appointment—Qualifications—Terms—Vacancies—Officers—Quorum.
18.39.175	Board of funeral directors and embalmers—Duties and responsibilities—Compensation—Travel expenses.
18.39.177	Examinations for funeral directors and embalmers—Contents—Responsibilities of board.
18.39.180	Powers of director—Rules and regulations—Suspension or revocation of licenses—Grounds.
18.39.181	Additional powers and duties of director.
18.39.223	Violations—Investigation—Procedure—Compelling compliance—Subpoena powers—Contempt.
18.39.225	Violations—Referral to attorney general or prosecutor—Action to restrain or prohibit violations.

Prerearrangement funeral service contracts: Chapter 48.40 RCW.

18.39.010 Definitions. The term "funeral director" as used herein is a person engaged in the profession or business of conducting funerals and supervising or directing the burial and disposal of dead human bodies.

The term "embalmer" as used herein is a person engaged in the profession or business of disinfecting,

preserving or preparing for disposal or transportation dead human bodies.

A "two-year college course" as used herein means the completion of sixty semester hours or ninety quarter hours of collegiate credit from a college or university approved by the director and the state board of funeral directors and embalmers.

"Funeral establishment" means a place of business licensed in accordance with RCW 18.39.145, conducted at a specific street address or location, and devoted to the care and preparation for burial or disposal of dead human bodies and includes all areas of such business premises and all tools, instruments, and supplies used in preparation and embalming of dead human bodies for burial or disposal.

"Director" means the director of motor vehicles.

"Board" means the state board of funeral directors and embalmers created pursuant to RCW 18.39.173.

Words used in this chapter importing the singular may be applied to the plural of the person or thing, words importing the plural may be applied to the singular, and words importing the masculine gender may be applied to the female. [1977 1st ex.s. c 93 § 1; 1965 ex.s. c 107 § 1; 1937 c 108 § 1; RRS § 8313.]

Reviser's note: "director motor vehicles" redesignated "director of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Number and gender: RCW 1.12.050.

18.39.145 Funeral establishment license—Issuance—Requirements—Transferability. The director shall issue a funeral establishment license to any person, partnership, association, corporation, or other organization to operate a funeral establishment, at specific locations only, which has met the following requirements:

(1) The applicant has designated the name under which the funeral establishment will operate and has designated locations for which the general establishment license is to be issued;

(2) The applicant is licensed in this state as a funeral director and as an embalmer, or employs at least one person with both such qualifications or one licensed funeral director and one embalmer who will be in service at each designated location;

(3) The applicant has filed an application with the director as required by this chapter and paid the required filing fee therefor as fixed by the director pursuant to RCW 43.24.085.

The director shall make the determination of qualifications of all applicants within a reasonable time after the filing of an application with the director. No funeral establishment license shall be transferable, but an applicant may make application for more than one funeral establishment license so long as all of the requirements are met for each license. [1977 1st ex.s. c 93 § 3.]

18.39.148 Funeral establishment license—Cancellation for not having funeral director or embalmer in employ—Exception. (1) In the event a licensed funeral establishment ceases to have a licensed funeral director and embalmer in its employ at its place of business, its license shall be canceled immediately by the

director, except as provided in subsection (2) of this section.

(2) If a licensed funeral establishment constitutes any part of the assets of an estate of a deceased person upon whom such license was dependent because the deceased was a licensed funeral director, then the legal representative of the estate shall be entitled to appoint someone other than a licensed funeral director to act in the capacity of a funeral director and shall be entitled to continue to operate the licensed funeral establishment under the existing license or renewals thereof for a period not to exceed two years without the necessity of employing a licensed funeral director in addition to the required licensed embalmer. [1977 1st ex.s. c 93 § 4.]

18.39.173 Board of funeral directors and embalmers—Established—Membership—Appointment—Qualifications—Terms—Vacancies—Officers—Quorum. There is hereby established a state board of funeral directors and embalmers to be composed of five members appointed by the governor in accordance with this section, one of whom shall be a public member. The three members of the state examining committee for funeral directors and embalmers, which was created pursuant to RCW 43.24.060, as of September 21, 1977 are hereby appointed as members of the board to serve for initial terms. The governor shall appoint two additional members of the board. Each professional member of the board shall be licensed in this state as a funeral director and embalmer and a resident of the state of Washington for a period of at least five years next preceding appointment, during which time such member shall have been continuously engaged in the practice as a funeral director or embalmer as defined in this chapter. No person shall be eligible for appointment to the board of funeral directors and embalmers who is financially interested, directly or indirectly, in any embalming college, wholesale funeral supply business, or casket manufacturing business.

All members of the board of funeral directors and embalmers shall be appointed to serve for a term of five years, to expire on July 1 of the year of termination of their term, and until their successors have been appointed and qualified: *Provided*, That the governor is granted the power to fix the terms of office of the members of the board first appointed so that the term of office of not more than one member of the board shall terminate in any one year. In case of a vacancy occurring on the board, the governor shall appoint a qualified member for the remainder of the unexpired term of the vacant office. Any member of the board of funeral directors and embalmers who fails to properly discharge the duties of a member may be removed by the governor.

The board shall meet once annually to elect a chairman, vice chairman, and secretary and take official board action on pending matters by majority vote of all the members of the board of funeral directors and embalmers and at other times when called by the director, the chairman, or a majority of the members. A majority of the members of said board shall at all times constitute a quorum. [1977 1st ex.s. c 93 § 8.]

18.39.175 Board of funeral directors and embalmers—Duties and responsibilities—Compensation—Travel expenses. Each member of the board of funeral directors and embalmers shall receive compensation of twenty-five dollars for each board meeting attended, together with travel expenses in connection with board duties in accordance with RCW 43.03.050 and 43.03.060.

The state board of funeral directors and embalmers shall have the following duties and responsibilities:

(1) To be responsible for the preparation, conducting, and grading of examinations of applicants for funeral director and embalmer licenses;

(2) To certify to the director the results of examinations of applicants and certify the applicant as having "passed" or "failed";

(3) To make findings and recommendations to the director on any and all matters relating to the enforcement of the provisions of this chapter; and

(4) To perform all other duties and responsibilities under this chapter, the laws of the state of Washington, and the rules and regulations promulgated in support thereof. [1977 1st ex.s. c 93 § 9.]

Termination of board—1977 1st ex.s. c 93: "The board of funeral directors and embalmers shall cease to exist on July 1, 1981, unless extended by law for an additional fixed period of time." [1977 1st ex.s. c 93 § 12.]

18.39.177 Examinations for funeral directors and embalmers—Contents—Responsibilities of board. The board of funeral directors and embalmers shall be responsible for determining the nature, type, and extent of examinations to be taken by applicants for a funeral director or embalmer license. However, such examinations for embalmers shall include generally the following subjects: Anatomy, chemistry, restorative art, physiology, pathology, sanitary science, and the care, disinfection, preservation, transportation, and burial, or other final disposition, of dead human bodies. The examination for funeral director shall generally include: Psychology, sanitary science, the care and transportation of dead human bodies, and operational management of funeral establishments. Both examinations shall include generally the subject of this chapter and of the law of the state of Washington relating to infectious diseases, quarantine, and the care and disposition of dead human bodies. The board shall grade the examinations and shall determine whether the applicant has passed or failed such examination. Examinations shall be written and shall be held at such times and at such places within the state of Washington as determined by the director. [1977 1st ex.s. c 93 § 10.]

18.39.180 Powers of director—Rules and regulations—Suspension or revocation of licenses—Grounds. For the purpose of carrying out the provisions of this chapter the director of motor vehicles in consultation with the state board of funeral directors and embalmers shall have power and it shall be their duty to adopt, promulgate and enforce reasonable rules and regulations. Said director shall have the power to suspend or revoke any license, after proper hearing and notice to

the licensee, upon such licensee being found guilty of any of the following acts or omissions:

- (1) Conviction of a crime involving moral turpitude;
- (2) Unprofessional conduct which is hereby defined to include:

(a) Misrepresentation or fraud in the conduct of the business or the profession of a funeral director or embalmer;

(b) False or misleading advertising as a funeral director or embalmer;

(c) Solicitation of human dead bodies by the licensee, his agents, assistants or employees, whether such solicitation occurs after death or while death is impending; *Provided*, This chapter shall not be deemed to prohibit general advertising or the sale of pre-need funeral plans;

(d) Employment by the licensee of persons known as "cappers" or "steerers" or "solicitors" or other such persons to obtain funeral directing or embalming business;

(e) Employment directly or indirectly of any apprentice, agent, assistant, embalmer, employee, or other person, on part or full time, or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral director or embalmer;

(f) The buying of business by the licensee, his agents, assistants or employees, or the direct or indirect payment or offer of payment of a commission by the licensee, his agents, assistants or employees, for the purpose of securing business;

(g) Gross immorality;

(h) Aiding or abetting an unlicensed person to practice funeral directing or embalming;

(i) Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any crematory, mausoleum or cemetery;

(j) Using any casket or part of a casket which has previously been used as a receptacle for, or in connection with, the burial or other disposition of, a dead human body, without the written consent of next of kin;

(k) Violation of any of the provisions of this chapter or the rules and regulations in support thereof;

(l) Violation of any state law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies;

(m) Fraud or misrepresentation in obtaining a license;

(n) Refusing to promptly surrender the custody of a dead human body, upon the express order of the person lawfully entitled to the custody thereof;

(o) For the selling or offering for sale of shares, certificates or an interest in the business of any funeral director or embalmer or in any corporation owning or conducting an undertaking or embalming establishment, under promise of or purporting to give to the purchasers thereof a right to the services of such funeral director, embalmer or corporation at a charge or cost less than that offered or given to the public at large. [1977 1st ex.s. c 93 § 2; 1937 c 108 § 11; RRS § 8323. Prior: 1909 c 215 § 14. Formerly RCW 18.39.180 and 18.39.200.]

Reviser's note: "director of motor vehicles" redesignated "director of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Prearrangement funeral service contracts, violation grounds for license revocation: RCW 48.40.075.

Record of caskets required: RCW 68.20.100.

18.39.181 Additional powers and duties of director.

The director, in addition to other powers and duties, shall have the following powers and duties under this chapter:

(1) To determine the qualifications of applicants for all licenses under this chapter;

(2) To issue all licenses provided for under the provisions of this chapter;

(3) To annually renew licenses under this chapter;

(4) To collect all fees prescribed and required under this chapter; and

(5) To keep general books of record of all official acts, proceedings, and transactions of the department while acting under this chapter. [1977 1st ex.s. c 93 § 5.]

18.39.223 Violations—Investigation—Procedure—Compelling compliance—Subpoena powers—Contempt.

(1) The director may initiate and conduct investigations as may be reasonably necessary to establish the existence of any alleged violations of or noncompliance with the provisions of this chapter or any rules and regulations issued hereunder. For the purpose of any investigation or proceeding under this chapter, the director or any officer designated by him may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to the inquiry.

(2) If any individual fails to obey a subpoena or obeys a subpoena but refuses to give evidence, any court of competent jurisdiction, upon application by the director, may issue to that person an order requiring him to appear before the court, to show cause why he should not be compelled to obey the subpoena and give evidence material to the matter under investigation. The failure to obey an order of the court may be punishable as contempt. [1977 1st ex.s. c 93 § 6.]

18.39.225 Violations—Referral to attorney general or prosecutor—Action to restrain or prohibit violations.

The director may refer such evidence as may be available to him concerning violations of this chapter or of any rule or regulation adopted hereunder to the attorney general or the prosecuting attorney of the county wherein the alleged violation arose, who may, in their discretion, with or without such a reference, in addition to any other action they might commence, bring an action in the name of the state against any person to restrain and prevent the doing of any act or practice prohibited by this chapter: *Provided*, That this chapter shall be considered in conjunction with chapters 9.04 and 19.86 RCW, as now or hereafter amended, and the powers and duties of the attorney general and the prosecuting attorney as they may appear in the aforementioned chapters, shall apply against all persons subject to this chapter. [1977 1st ex.s. c 93 § 7.]

Chapter 18.43

ENGINEERS AND LAND SURVEYORS

Sections

18.43.035 Bylaws—Employees—Rules—Investigations—Oaths, subpoenas—Periodic reports and roster.

18.43.035 Bylaws—Employees—Rules—Investigations—Oaths, subpoenas—Periodic reports and roster. The board may adopt and amend bylaws establishing its organization and method of operation, including but not limited to meetings, maintenance of books and records, publication of reports, code of ethics, and rosters, and adoption and use of a seal. Three members of the board shall constitute a quorum for the conduct of any business of the board. The board may employ such persons as are necessary to carry out its duties under this chapter. It may adopt rules and regulations reasonably necessary to administer the provisions of this chapter. It may conduct investigations concerning alleged violations of the provisions of this chapter. In making such investigations and in all proceedings under RCW 18.43.110, the chairman of the board or any member of the board acting in his place may administer oaths or affirmations to witnesses appearing before the board, subpoena witnesses and compel their attendance, and require the production of books, records, papers and documents. If any person shall refuse to obey any subpoena so issued, or shall refuse to testify or produce any books, records, papers or documents so required to be produced, the board may present its petition to the superior court of the county in which such person resides, setting forth the facts, and thereupon the court shall, in any proper case, enter a suitable order compelling compliance with the provisions of this chapter and imposing such other terms and conditions as the court may deem equitable. The board shall submit to the governor such periodic reports as may be required. A roster, showing the names and places of business of all registered professional engineers and land surveyors may be published for distribution, upon request, to professional engineers and land surveyors registered under this chapter and to the public. [1977 c 75 § 10; 1961 c 142 § 1; 1959 c 297 § 1.]

Chapter 18.44

ESCROW AGENT REGISTRATION ACT

Sections

18.44.010 Definitions.
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 18.44.330 Escrow agent branch offices—Application to establish—Requirements.
 18.44.340 Escrow agent branch offices—Issuance and delivery of certificate of registration to engage in business at branch location.
 18.44.350 Certificates of registration and licenses—Form and size—Contents.
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 18.44.370 Organization of mutual corporation to insure or self-insure where fidelity bond and/or errors and omissions policy not reasonably available.
 18.44.921 Severability—1977 1st ex.s. c 156.

18.44.010 Definitions. Unless the context otherwise requires terms used in this chapter shall have the following meanings:

(1) "Department" means the department of motor vehicles.

(2) "Director" means the director of the department of motor vehicles, or his duly authorized representative.

(3) "Escrow" means any transaction wherein any person or persons, for the purpose of effecting and closing the sale, purchase, exchange, transfer, encumbrance, or lease of real or personal property to another person or persons, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person to be held by such third person until the happening of a specified event or the performance of a prescribed condition or conditions, when it is then to be delivered by such third person, in compliance with instructions under which he is to act, to a grantee, grantor, promisee, promisor, obligee, obligor, lessee, lessor, bailee, bailor, or any agent or employee thereof.

(4) "Escrow agent" means any sole proprietorship, firm, association, partnership, or corporation engaged in the business of performing for compensation the duties of the third person referred to in RCW 18.44.010(3) above.

(5) "Certificated escrow agent" means any sole proprietorship, firm, association, partnership, or corporation

holding a certificate of registration as an escrow agent under the provisions of this chapter.

(6) "Person" unless a different meaning appears from the context, includes an individual, a firm, association, partnership or corporation, or the plural thereof, whether resident, nonresident, citizen or not.

(7) "Escrow officer" means any natural person handling escrow transactions and licensed as such by the director.

(8) "Escrow commission" means the escrow commission of the state of Washington created by RCW 18.44.210.

(9) "Controlling person" is any person who owns or controls ten percent or more of the beneficial ownership of any escrow agent, regardless of the form of business organization employed and regardless of whether such interest stands in such person's true name or in the name of a nominee. [1977 1st ex.s. c 156 § 1; 1971 ex.s. c 245 § 1; 1965 c 153 § 1.]

Reviser's note: The "department of motor vehicles" was redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

18.44.020 Registration—Required—Exceptions. It shall be unlawful for any person to engage in business as an escrow agent within this state unless such person possesses a valid certificate of registration issued by the director pursuant to this chapter: *Provided*, That the registration and licensing requirements of this chapter shall not apply to:

(1) Any person doing business under the law of this state or the United States relating to banks, trust companies, mutual savings banks, savings and loan associations, credit unions, insurance companies, title insurance companies, the duly authorized agents of title insurance companies the business of which agents is exclusively devoted to the title insurance business, or any federally approved agency or lending institution under the National Housing Act.

(2) Any person licensed to practice law in this state while engaged in the performance of his professional duties.

(3) Any company, broker, or agent subject to the jurisdiction of the director while performing acts in the course of or incidental to sales or purchases of real or personal property handled or negotiated by such company, broker, or agent: *Provided, however*, That no compensation is received for escrow services.

(4) Any transaction in which money or other property is paid to, deposited with, or transferred to a joint control agent for disbursement or use in payment of the cost of labor, material, services, permits, fees, or other items of expense incurred in the construction of improvements upon real property.

(5) Any receiver, trustee in bankruptcy, executor, administrator, guardian, or other person acting under the supervision or order of any superior court of this state or of any federal court. [1977 1st ex.s. c 156 § 2; 1971 ex.s. c 245 § 2; 1967 ex.s. c 76 § 1; 1965 c 153 § 2.]

18.44.030 Registration—Application, requisites.

An application for registration as an escrow agent shall be in writing in such form as is prescribed by the director, and shall be verified on oath by the applicant. If the applicant is a corporation, the application shall include a list of the officers and directors of such corporation, and their addresses; if the applicant is a firm or partnership, the application shall include a list of the names and addresses of the partners. The application shall include a consent to service of process, in such form as the director shall prescribe, and payment of the fee required by RCW 18.44.080. [1977 1st ex.s. c 156 § 3; 1965 c 153 § 3.]

18.44.040 Registration—Filing requirements.

Each applicant shall, at the time of applying for registration, file with the director:

(1) The applicant's business form and place of organization.

(2) In the event the applicant is doing business under an assumed name, a certified copy of the certificate of assumed name as filed with the county clerk in the county or counties in which the applicant does business or proposes to do business, as provided in chapter 19.80 RCW.

(3) The qualification and business history including a commercial type credit and character report from a recognized credit reporting bureau satisfactory to the director on the applicant, principal officers, controlling person, or partners.

(4) Such proof as the director may require concerning the honesty, veracity, and good reputation, as well as the identity of the applicant, principal officers, controlling person, or partners. Identification of the applicant, principal officers, or partners shall include but not be limited to fingerprints.

(5) Whether the applicant, principal officers, or partners have been convicted of any crime within the preceding ten years which relate directly to the business or duties of escrow agents, or have suffered a judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion.

(6) The identity of the natural person designated as the escrow officer to supervise the agent's escrow activity.

(7) Any other information the director may reasonably require. [1977 1st ex.s. c 156 § 4; 1971 ex.s. c 245 § 3; 1965 c 153 § 4.]

18.44.050 Fidelity bond—Errors and omissions policy. At the time of filing an application as an escrow agent, or any renewal or reinstatement thereof, the applicant shall satisfy the director that it has obtained the following as evidence of financial responsibility:

(1) A fidelity bond providing coverage in the amount of two hundred thousand dollars on each officer and employee of the applicant engaged in escrow transactions; and

(2) An errors and omissions policy issued to the escrow agent providing coverage in the minimum amount of fifty thousand dollars per loss.

For the purposes of this section, a "fidelity bond" shall mean a primary commercial blanket bond or its equivalent satisfactory to the director and written by an insurer authorized to transact surety business in the state of Washington. Such bond shall provide fidelity coverage for any fraudulent or dishonest acts committed by any one or more of the employees or officers as defined in the bond, acting alone or in collusion with others. Said bond shall be for the sole benefit of the escrow agent and under no circumstances whatsoever shall the bonding company be liable under the bond to any other party. The bond shall name the escrow agent as obligee and shall protect the obligee against the loss of money or other real or personal property belonging to the obligee, or in which the obligee has a pecuniary interest, or for which the obligee is legally liable or held by the obligee in any capacity, whether the obligee is legally liable therefor or not. The bond may be canceled by the insurer upon delivery of thirty days' written notice to the director and to the escrow agent.

For the purposes of this section, an "errors and omissions policy" shall mean a group or individual insurance policy satisfactory to the director and issued by an insurer authorized to transact insurance business in the state of Washington. Such policy shall provide coverage for unintentional errors and omissions of the escrow agent and its employees, and may be canceled by the insurer upon delivery of thirty days' written notice to the director and to the escrow agent.

Except as provided in RCW 18.44.360, the fidelity bond and the errors and omissions policy required by this section shall be kept in full force and effect as a condition precedent to the escrow agent's authority to transact escrow business in this state, and the escrow agent shall supply the director with satisfactory evidence thereof upon request. [1977 1st ex.s. c 156 § 5; 1971 ex.s. c 245 § 4; 1965 c 153 § 5.]

18.44.065 Advertisement, statement or reference to existence of financial responsibility requirements prohibited. No escrow agent, officer, or employee shall publish or otherwise place before the public any advertisement, announcement, or statement which uses or makes reference to the existence of the financial responsibility requirements of this chapter, including but not limited to references to "bonded" or "insured".

No firm or organization engaged in escrow transactions, whether or not such firm is doing business in a corporate form, shall use in the name of such firm any reference to the financial responsibility requirements of this chapter, including but not limited to "bonded" or "insured". [1977 1st ex.s. c 156 § 18.]

18.44.067 Change in business or branch office location. Notice in writing shall be given to the director and to the insurer providing coverage under RCW 18.44.050 as now or hereafter amended of any change of business location or of branch office location. Upon the surrender of the original registration for the agent or the registration applicable to a branch office and a payment of a fee, the director shall issue a new certificate covering the new location. [1977 1st ex.s. c 156 § 19.]

18.44.070 Records and accounts—Segregation of funds. Every certificated escrow agent shall keep adequate records of all transactions handled by or through him including itemization of all receipts and disbursements of each transaction, which records shall be open to inspection by the director or his authorized representatives.

Every certificated agent shall keep a separate escrow fund account in a recognized Washington state depository authorized to receive funds, in which shall be kept separate and apart and segregated from the agent's own funds, all funds or moneys of clients which are being held by the agent pending the closing of a transaction and such funds shall be deposited not later than the first banking day following receipt thereof.

Violation of this section shall constitute grounds for suspension or revocation of the registration or license of any person under this chapter and such additional penalties as may be prescribed in Title 9A RCW. [1977 1st ex.s. c 156 § 6; 1965 c 153 § 7.]

18.44.080 Fees. The director shall charge and collect the following fees:

(1) For filing an original or a renewal application for registration as an escrow agent, an annual fee of one hundred dollars for the first office or location and twenty-five dollars for each additional office or location.

(2) For filing an application for a change of address, ten dollars for each certificate of registration and for each escrow officer license being so changed.

(3) For filing an application for a duplicate of a certificate of registration or of an escrow officer license lost, stolen, destroyed, or for replacement, ten dollars.

(4) All fees received by the director under this chapter shall be paid by him into the state treasury to the credit of the general fund. [1977 1st ex.s. c 156 § 7; 1971 ex.s. c 245 § 5; 1965 c 153 § 8.]

18.44.090 Certificate of registration—Issuance. Upon the filing of the application for registration as an escrow agent on a form provided by the director and satisfying the requirements as set forth in this chapter, the director shall issue and deliver to the applicant a certificate of registration to engage in the business of an escrow agent at the location set forth in the certificate. [1977 1st ex.s. c 156 § 8; 1965 c 153 § 9.]

18.44.130 Termination of certificate—Effect upon preexisting escrows—Notice to principals. The revocation, suspension, surrender or expiration of an escrow agent's certificate shall not impair or affect preexisting escrows accepted by the agent prior to such revocation, suspension, surrender or expiration: *Provided*, That the escrow agent shall within five work days provide written notice to all principals of such preexisting escrows of the agent's loss of registration. The notice shall include as a minimum the reason for the loss of registration, the estimated date for completing the escrow, and the condition of the agent's bond and whether it is in effect or whether notice of cancellation has been given. The notice shall afford the principals the

right to withdraw the escrow without monetary loss. [1977 1st ex.s. c 156 § 9; 1965 c 153 § 13.]

18.44.160 Remedies—Injunction—Restraining order. Whenever it shall appear that any person, required by this chapter to register with the department, is conducting business as an escrow agent without having applied for and obtained a certificate of registration, or that any certificated escrow agent is conducting business in a manner deemed unsafe or injurious to the public or any party having business relations with such escrow agent as a contracting party to an escrow agreement as defined in RCW 18.44.010, or in violation of any of the provisions of this chapter, the attorney general or the prosecuting attorney of the appropriate county may, after such investigation as may be necessary, apply to the appropriate court for an order enjoining the person from engaging in or continuing to engage in the activity violative of this chapter, and upon a showing that such person has engaged, or is about to engage, in any such activity, a permanent or temporary injunction, restraining order, or other appropriate order may be issued by the court. [1977 1st ex.s. c 156 § 10; 1965 c 153 § 17.]

18.44.175 Violations—Cease and desist orders—Injunction—Restraining order. If the director determines after notice and hearing that a person has:

- (1) Violated any provision of this chapter; or
- (2) Directly, or through an agent or employee, engaged in any false, deceptive, or misleading
 - (a) advertising or promotional activity, or
 - (b) business practices; or
- (3) Violated any lawful order, rule, or regulation of the director; the director may issue an order requiring the person to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the director will carry out the purposes of this chapter.

If the director makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, the director may issue a temporary cease and desist order. Prior to issuing the temporary cease and desist order, the director, whenever possible by telephone or otherwise, shall give notice of the proposal to issue a temporary cease and desist order to the person. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held to determine whether or not the order becomes permanent.

If it appears that a person has engaged or is about to engage in an act or practice constituting a violation of a provision of this chapter, or a rule or order under this chapter, the director, with or without prior administrative proceedings, may bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter or any rule, regulation, or order under this chapter. Upon proper showing, injunctive relief or temporary restraining orders shall be granted and a receiver or conservator may be appointed. The director shall not be required to post a bond in any court proceedings. [1977 1st ex.s. c 156 § 20.]

18.44.200 Escrow officer required for handling transactions—Exceptions—Responsibility of supervising escrow agent. No escrow agent shall engage in the business of handling escrow transactions unless such transactions are supervised by a licensed "escrow officer": *Provided*, That (1) in the case of a partnership, one licensed partner shall act on behalf of the partnership; (2) in the case of a corporation, one licensed officer thereof shall act on behalf of the corporation; and (3) each branch office shall be required to have at least one licensed escrow officer designated by the escrow agent. Responsibility for the conduct of any escrow agent, escrow officers, or branch escrow officers covered by this chapter shall rest with the escrow officer having direct supervision of such person's escrow activities. The branch escrow officer shall bear responsibility for persons operating under each branch escrow officer's supervision at a branch escrow office. [1977 1st ex.s. c 156 § 11; 1971 ex.s. c 245 § 7.]

18.44.210 State escrow commission—Created—Members—Terms. There is established an escrow commission of the state of Washington, consisting of the director, who shall be chairman, and four commission members who shall act in an advisory capacity to the director. The commission members shall be appointed by the governor for a term of four years each: *Provided*, That one of such appointees shall be selected from persons designated by the governing authority of the escrow association of Washington, and one shall be selected from designees of the governing authority of the Washington state bar association, and the remaining two members shall be selected from persons engaged in the business of handling escrow transactions. [1977 1st ex.s. c 156 § 12; 1971 ex.s. c 245 § 8.]

18.44.215 Per diem and travel expenses of commission members. The four escrow commission members shall each receive fifty dollars per day for each day engaged in official business of the commission, plus travel expenses as provided for state officials and employees in RCW 43.03.050 and 43.03.060, when called into session by the director or when otherwise engaged in the business of the commission. [1977 1st ex.s. c 156 § 29.]

18.44.220 Escrow officers—Examination—Fee—Qualifications. Any person desiring to be an escrow officer must successfully pass an examination. The person shall make application for an escrow officer examination on a form provided by the director and pay an examination fee of twenty-five dollars. The applicant shall satisfy the director that the applicant is at least eighteen years old and is a resident of the state of Washington. [1977 1st ex.s. c 156 § 13; 1971 ex.s. c 245 § 9.]

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

18.44.240 Escrow officer examination—Subjects—Annual. The escrow officer examination shall encompass the following:

(1) Appropriate knowledge of the English language, including reading, writing, and arithmetic;

(2) An understanding of the principles of real estate conveyancing, the general purposes and legal effects of deeds, mortgages, deeds of trust, contracts of sale, exchanges, rental and optional agreements, leases, earnest money agreements, personal property transfers, and encumbrances;

(3) An understanding of the obligations between principal and agent; and

(4) An understanding of the meaning and nature of encumbrances upon real property.

The examination shall be in such form as prescribed by the director and approved by the commission, and shall be given at least annually. [1977 1st ex.s. c 156 § 14; 1971 ex.s. c 245 § 11.]

18.44.250 Director—Educational conferences—Examinations. The director shall have the authority to hold educational conferences for the benefit of the industry and shall conduct examinations for licenses as an escrow officer. [1977 1st ex.s. c 156 § 15; 1971 ex.s. c 245 § 12.]

18.44.260 Denial, suspension, or revocation of escrow agent's registration or escrow officer's license—Grounds. The director may, upon notice to the escrow agent and to the insurer providing coverage under RCW 18.44.050 as now or hereafter amended, by order deny, suspend, or revoke the certificate of registration or license of any escrow agent or escrow officer if he finds that the applicant or any partner, officer, director, controlling person, or employee is guilty of the following:

(1) Obtaining a license or registration by means of fraud, misrepresentation, concealment, or through the mistake or inadvertence of the director.

(2) Violating any of the provisions of this chapter or any lawful rules or regulations made by the director pursuant thereto.

(3) The commission of a crime against the laws of this or any other state or government, involving moral turpitude or dishonest dealings.

(4) Knowingly committing or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person lawfully relying upon the word, representation, or conduct of the licensee or agent or any partner, officer, director, controlling person, or employee acts to his injury or damage.

(5) Conversion of any money, contract, deed, note, mortgage, or abstract or other evidence of title to his own use or to the use of his principal or of any other person, when delivered to him in trust or on condition, in violation of the trust or before the happening of the condition; and failure to return any money or contract, deed, note, mortgage, abstract or other evidence of title within thirty days after the owner thereof is entitled

thereto, and makes demand therefor, shall be prima facie evidence of such conversion.

(6) Failing, upon demand, to disclose any information within his knowledge to, or to produce any document, book, or record in his possession for inspection of, the director or his authorized representatives.

(7) Committing any act of fraudulent or dishonest dealing, and a certified copy of the final holding of any court of competent jurisdiction in such matter shall be conclusive evidence in any hearing under this chapter.

(8) Accepting, taking or charging any undisclosed commission, rebate or direct profit on expenditures made for the principal. [1977 1st ex.s. c 156 § 16; 1971 ex.s. c 245 § 13.]

18.44.270 Application of administrative procedure act to revocation, suspension, or refusal to renew proceedings. The proceedings for revocation, suspension, or refusal to renew or accept an application for renewal of an escrow agent's registration or escrow officer license, and any appeal therefrom or review thereof shall be governed by the provisions of chapter 34.04 RCW. [1977 1st ex.s. c 156 § 17; 1971 ex.s. c 245 § 14.]

18.44.280 Investigation of violations—Procedure—Powers of director. The director may:

(1) Make necessary public or private investigations within or outside of this state to determine whether any person has violated or is about to violate this chapter or any rule, regulation, or order under this chapter, or to aid in the enforcement of this chapter or in the prescribing of rules and forms under this chapter; or

(2) Require or permit any person to file a statement in writing, under oath or otherwise as the director determines, as to all facts and circumstances concerning the matter to be investigated.

For the purpose of any investigation or proceeding under this chapter, the director or any officer designated by him may administer oaths or affirmations, and upon his own motion or upon request of any party, may subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge or relevant facts, or any other matter reasonably calculated to lead to the discovery of material evidence.

Upon failure to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the director may apply to the superior court for an order compelling compliance.

Except as otherwise provided in this chapter, all proceedings under this chapter shall be in accordance with the administrative procedure act, chapter 34.04 RCW. [1977 1st ex.s. c 156 § 21.]

18.44.290 Escrow officer's license—Application—Form—Timely filing—Proof of moral character, etc. Any person desiring to be an escrow officer shall meet the requirements of RCW 18.44.220 as

provided in this chapter. The applicant shall make application endorsed by a certificated escrow agent to the director on a form to be prescribed and furnished by the director. Such application must be received by the director within one year of passing the escrow officer examination. With this application the applicant shall:

- (1) Pay a license fee as set forth in this chapter; and
- (2) Furnish such proof as the director may require concerning his honesty, truthfulness, good reputation, and identity, including but not limited to fingerprints. [1977 1st ex.s. c 156 § 22.]

18.44.300 Escrow officer's license—Fees—

Renewal. Any person desiring to be an escrow officer must include with the application a license fee of fifty dollars. Every escrow officer license issued under the provisions of this chapter expires on the date one year from the date of issue which date will henceforth be the renewal date. An annual license renewal fee in the same amount must be paid on or before each renewal date: *Provided*, That licenses issued or renewed prior to September 21, 1977 shall use the existing renewal date as the date of issue. If the application for a renewal license is not received by the director on or before the renewal date such license is expired. The license may be reinstated at any time prior to the next succeeding renewal date following its expiration upon the payment to the director of the annual renewal fee then in default. Acceptance by the director of an application for renewal after the renewal date shall not be a waiver of the delinquency. Licenses not renewed within one year of the renewal date then in default shall be canceled. A new license may be obtained by satisfying the procedures and qualifications for initial licensing, including where applicable successful completion of examinations. [1977 1st ex.s. c 156 § 23.]

18.44.310 Escrow officer's license—Retention and display by agent—Termination—Inactive licenses. The license of an escrow officer shall be retained and displayed at all times by the certificated escrow agent, and when the officer ceases to represent the agent, the license shall cease to be in force. Notice of such termination shall be given by the next regular business day by the escrow agent to the director and such notice shall be accompanied by and include the surrender of the escrow officer's license. Failure to notify the director of such termination after demand by the affected escrow officer shall work a forfeiture of the escrow agent's certificate of registration.

The director may hold the escrow officer's license inactive for a period not exceeding three consecutive years upon application of the escrow officer: *Provided*, That the escrow officer shall pay the annual renewal fee. Such license may be activated upon application of a certificated escrow agent on a form provided by the director, endorsement by an escrow officer, and the payment of a ten dollar fee. The director shall thereupon issue a new license for the unexpired term if such escrow officer is otherwise entitled thereto. An escrow officer's first license shall not be issued inactive. [1977 1st ex.s. c 156 § 24.]

18.44.320 Rules and regulations—Enforcement—Hearings—Denial, suspension or revocation of registration or licenses—Powers of director. The director may issue rules and regulations to govern the activities of certificated escrow agents and escrow officers. The director shall enforce all laws, rules, and regulations relative to the registration of escrow agents and licensing of escrow officers. The director may hold hearings and suspend or revoke the registration or licenses of violators and may deny, suspend, or revoke the authority of an escrow officer to act as the designated escrow officer of a person who commits violations of this chapter or of the rules and regulations.

Except as specifically provided in this chapter, the rules adopted and the hearings conducted shall be in accordance with the provisions of chapter 34.04 RCW, the administrative procedure act. [1977 1st ex.s. c 156 § 25.]

18.44.330 Escrow agent branch offices—Application to establish—Requirements. An escrow agent shall not operate an escrow business in a location other than the location set forth on the agent's certificate of registration issued by the director. The escrow agent may apply to the director for authority to establish one or more branch offices under the same name as the main office.

Any person desiring to operate a branch escrow office shall make application on a form provided by the director and pay a fee as set forth in this chapter. Such application shall identify the natural person designated as the escrow officer to supervise the agent's escrow activity at the escrow agent branch office.

No escrow agent branch office certificate of registration shall be issued until the applicant has satisfied the director that the escrow activity of said branch meets all financial responsibility requirements governing the conduct of escrow activity. [1977 1st ex.s. c 156 § 26.]

18.44.340 Escrow agent branch offices—Issuance and delivery of certificate of registration to engage in business at branch location. Upon the filing of the application for an escrow agent branch office and satisfying the requirements of this chapter, the director shall issue and deliver to the applicant a certificate of registration to engage in the business of an escrow agent at the branch location set forth on the certificate. [1977 1st ex.s. c 156 § 27.]

18.44.350 Certificates of registration and licenses—Form and size—Contents. Each escrow agent and escrow agent branch office certificate of registration and each escrow officer license, when issued, shall be in the form and size prescribed by the director and shall state in addition to any other matter required by the director:

- (1) The name of the licensee or registrant;
- (2) The name under which the applicant will do business;
- (3) The address at which the applicant will do business;

(4) The expiration date of the license or registration; and

(5) In the case of a corporation, partnership, or branch office, the name of the natural person who is designated to act as the escrow officer on behalf thereof. [1977 1st ex.s. c 156 § 28.]

18.44.360 Waiver of fidelity bond and/or errors and omissions policy requirements where not reasonably available—Determination procedure—Waiver period. The director shall, within thirty days after the written request of the escrow commission, hold a public hearing to determine whether the fidelity bond and/or the errors and omissions policy specified in RCW 18.44.050 as now or hereafter amended is reasonably available to a substantial number of certificated escrow agents. If the director determines and the insurance commissioner concurs that such bond and/or policy is not reasonably available, the director shall waive the requirements for such bond and/or policy for a fixed period of time not to exceed ninety days after the next regular session of the legislature. [1977 1st ex.s. c 156 § 30.]

18.44.370 Organization of mutual corporation to insure or self-insure where fidelity bond and/or errors and omissions policy not reasonably available. After a written determination by the director, with the consent of the insurance commissioner, that the fidelity bond and/or the errors and omissions policy required under RCW 18.44.050 as now or hereafter amended is cost-prohibitive, or after a determination as provided in RCW 18.44.360 that such bond or policy is not reasonably available, upon the request of an association comprised of certificated escrow agents, the director, with the consent of the insurance commissioner, may authorize such association to organize a mutual corporation pursuant to chapter 24.06 RCW, exempt from the provisions of Title 48 RCW, for the purpose of insuring or self-insuring against claims arising out of escrow transactions, if, in the director's judgment, there is a substantial likelihood that the corporation will operate for the benefit of the public and if the corporation shall have established rules, procedures, and reserves which satisfy the director that it will operate in a financially responsible manner which provides a substantial probability that it shall be able to pay any claims made against the corporation, up to the limits of financial responsibility as provided in RCW 18.44.050, as now or hereafter amended. The director, with the consent of the insurance commissioner, may limit the authority of the corporation to the insuring or self-insuring of claims which would be within the coverage specified in RCW 18.44.050. The director, with the consent of the insurance commissioner, may revoke the authority of the corporation to transact insurance or self-insurance if he determines, pursuant to chapter 34.04 RCW, that the corporation is not acting in a financially responsible manner or for the benefit of the public. Any corporation established pursuant to this section shall cease to exist, except for the payment of incurred claims, ninety days after the next regular session of the legislature unless extended by law for an

additional fixed period of time. [1977 1st ex.s. c 156 § 31.]

18.44.921 Severability—1977 1st ex.s. c 156. If any provision of this 1977 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. [1977 1st ex.s. c 156 § 33.]

Chapter 18.51 NURSING HOMES

Sections

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| 18.51.170 | Application of chapter to homes or institutions operated by certain religious organizations. |
| 18.51.310 | Patient assessment system—Revised licensing standards—Payments—Regulations. |

18.51.170 Application of chapter to homes or institutions operated by certain religious organizations. Nothing in this chapter or the rules and regulations adopted pursuant thereto shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any nursing home or institution conducted for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination, or for any nursing home or institution operated for the exclusive care of members of a convent as defined in RCW 84.36.800 or rectory, monastery, or other institution operated for the care of members of the clergy. [1977 c 48 § 1; 1951 c 117 § 21.]

18.51.310 Patient assessment system—Revised licensing standards—Payments—Regulations. (1) No later than September 30, 1977, the secretary shall implement and operate a patient assessment system whereby the characteristics of patients supported by the department under RCW 74.09.120 shall be computerized for the purpose of setting appropriate levels of staffing and reimbursement for nursing homes in accordance with the documented needs of the client population in each home.

(2) No later than November 30, 1977, the board of health shall adopt revised licensing standards for nursing homes after the fiscal impact of each revised standard has been assessed by the department. The licensing standards shall be suitable for:

- (a) Implementing the civil penalty system authorized under this chapter;
- (b) Identifying and measuring the outcomes of services delivered by the nursing home;
- (c) Assessing the fiscal impact on health care delivered under the licensing standards; and
- (d) Determining rates to meet client needs.

(3) No later than January 1, 1978, all payments made to nursing homes by the department shall meet the reasonable cost of:

- (a) Complying with the revised licensing standards;
- (b) Complying with federal standards; and

(c) Meeting client needs; as the reasonable costs are determined under federal regulations.

(4) No later than July 1, 1978, the department shall adopt all those regulations which meet all conditions necessary to fully implement the civil penalty system authorized by this chapter. [1977 1st ex.s. c 244 § 1.]

Chapter 18.52

NURSING HOME ADMINISTRATORS

Sections

18.52.010	Short title—Intent.
18.52.070	Qualifications of licensees—Examinations.
18.52.090	Licensing duties and responsibilities of director.
18.52.100	Duties and responsibilities of board—Standards, licenses, complaints, temporary permits, rules and regulations—Training program.
18.52.120	Suspension, revocation or refusal of reregistration of licenses.
18.52.150	Proceedings—Hearings—Appeals—Investigations.
18.52.155	Authority to administer oaths—Compel attendance and testimony—Subpoenas—Contempt.

18.52.010 Short title—Intent. This chapter shall be known as the "Nursing Home Administrator Licensing Act" and is intended to establish and provide for the enforcement of standards for the licensing of nursing home administrators. The legislature finds that the quality of patient care in nursing homes is directly related to the competence of the nursing home administrators. It is the intent of this chapter that licensed nursing home administrators continually maintain (1) the suitable character required and (2) the capacity to consider the available resources and personnel of the facility subject to their authority and come to reasonable decisions implementing patient care. [1977 1st ex.s. c 243 § 1; 1970 ex.s. c 57 § 1.]

18.52.070 Qualifications of licensees—Examinations. Upon the director's receipt of an application and examination fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, and completed application forms provided by the director, a nursing home administrator's license shall be issued to any person who:

(1) Is at least twenty-one years of age and of good moral character.

(2) Has presented evidence satisfactory to the board of practical experience, education, and training which, when evaluated according to criteria developed by the board, is equivalent to two years of experience in the operation of a nursing home: *Provided*, That after January 1, 1980, no license shall be issued to any applicant unless such applicant has either successfully completed at least two years of formal education beyond the high school level or holds an associate degree from a recognized institution of higher learning.

(3) Has passed an examination administered by the board which shall be designed to test the candidate's competence to administer a nursing home on the basis of the candidate's formal instruction and training or actual experience: *Provided however*, That nothing in this

chapter or the rules and regulations thereunder shall be construed to require an applicant for a license or provisional license as a nursing home administrator who is certified by any well established and generally recognized church or religious denomination which teaches reliance on spiritual means alone for healing as having been approved to administer institutions certified by such church or denomination for the care and treatment of the sick in accordance with its teachings, to demonstrate proficiency in any medical techniques or to meet any medical educational qualifications or medical standards not in accord with the remedial care and treatment provided in such institutions: *Provided further*, That any such individual shall demonstrate in the process of application for the examination his membership in such church or religious denomination and his license shall indicate the limited extent of his authority to act as an administrator.

(4) The initial administrator members of the board shall be selected and appointed by the governor to meet the requirements of subsection (1) of this section and of RCW 18.52.040 and 18.52.050. The three nonadministrator members of the first board shall administer to the initial administrator members an appropriate examination, and the initial administrator members shall thereafter be issued their licenses under this chapter as nursing home administrators. The three nonadministrator members of the first board may exercise the powers of the board to carry out licensing of the initial administrator members, regardless of the normal quorum or procedural requirements for board action. The licensing of the initial administrator members of the first board shall be carried out within thirty days after appointment of the board, and in all events prior to April 1, 1970. [1977 1st ex.s. c 243 § 2; 1975 1st ex.s. c 30 § 52; 1970 ex.s. c 57 § 7.]

18.52.090 Licensing duties and responsibilities of director. The director shall have the administrative duty and responsibility to:

(1) Issue nursing home administrator's licenses to individuals who meet the licensing requirements of RCW 18.52.070 and 18.52.080;

(2) Investigate complaints against nursing home administrators, and upon order of the board reprimand any licensee, or revoke, suspend, deny, or refuse to reregister the license of any licensee or applicant who fails to meet the applicable requirements of this chapter. [1977 1st ex.s. c 243 § 3; 1970 ex.s. c 57 § 9.]

18.52.100 Duties and responsibilities of board—Standards, licenses, complaints, temporary permits, rules and regulations—Training program. The board with the assistance of the director for administrative matters shall have the duty and responsibility within the limits provided in this chapter:

(1) To develop standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall include criteria to evaluate the practical experience, education, and training of applicants for licenses to determine that applicants have the equivalent of two years of experience in

the operation of a nursing home. The standards and criteria shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators as provided in this chapter.

(2) To develop appropriate techniques, including examinations and investigations to the extent necessary to determine whether an individual meets such standards for licensing.

(3) To develop, administer, and supervise an administrator-in-training program for applicants for licenses who are otherwise qualified but do not have the equivalent of two years experience in the operation of a nursing home at the time of application. Such program shall provide for supervision of each administrator-in-training by licensed nursing home administrators as preceptors. The board shall have the authority to do all acts necessary for the implementation of such a program, including, but not limited to, conducting education and training programs, establishing standards of qualification for preceptors, establishing criteria for creating and evaluating individual programs, and monitoring such programs to assure compliance with rules and regulations adopted by the board.

(4) To order the director to issue licenses to individuals determined by the board, after the application of such techniques, to meet such standards and to order the director to deny licenses to individuals who do not meet such standards or who are in violation of the provisions of RCW 18.52.120.

(5) To assure that the goals set forth in RCW 18.52.010 are effected the board shall have the authority after any notice and hearing which may be required by law, to order a reprimand of any licensee, or the suspension, refusal to reregister, or revocation of any license. The board may defer any such order or impose conditions thereon to permit continued licensed status when such action is reasonable considering the circumstances of the case, the protection of the health and safety of patients, and fairness to the administrator.

(6) To investigate, and take appropriate action with respect to, any charge or complaint filed with the board or director to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of the standards for licensing.

(7) To conduct a continuing study and investigation of the licensing of administrators of nursing homes within the state with a view to the improvement of the standards imposed for the licensing of new administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who are to be licensed.

(8) To encourage qualified educational institutions and other qualified organizations to establish, provide, and conduct and continue such training and instruction courses and programs as will enable all otherwise qualified individuals to attain the qualifications necessary to meet the standards for licensing nursing home administrators.

(9) To establish and carry out procedures, if required, designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements and standards for licensing set forth in this chapter.

(10) To establish appropriate procedures for the issuance in unusual circumstances and without examination of temporary license permits as nursing home administrators. Such permits may be issued and renewed by the director pursuant to rules and regulations which shall be established by the board. Such permits and renewals shall be subject to confirmation or rescission by order of the board upon review at the next board meeting. Any such permit or renewal thereof shall in all events expire six months from the date issued. No more than three consecutive permits shall be issued to any one person. Persons receiving such permits need not have passed the required examination but shall meet the other requirements of this chapter, except RCW 18.52.070(2). After hearing before the board and upon order of the board the director may revoke or suspend any such permit for the reasons provided in this chapter for suspension or revocation of administrator licenses.

(11) To advise the relevant state agencies regarding receipt and administration of such federal funds as are made available to carry out the educational purposes of this chapter.

(12) To advise the director regarding the application forms used by the director under this chapter.

(13) To direct the granting of provisional licenses as provided in this chapter.

(14) To issue rules and regulations which are necessary to carry out the functions of the board specifically assigned to it by this chapter. [1977 1st ex.s. c 243 § 4; 1970 ex.s. c 57 § 10.]

18.52.120 Suspension, revocation or refusal of reregistration of licenses. The director, after any notice and hearing before the board which may be required by law, and upon the order of the board, shall, subject to any deferral or condition ordered, refuse to reregister or shall suspend or revoke an administrator's license, or issue a reprimand as directed by the board, as provided in this chapter when proof has been submitted to the board that:

(1) The licensee has committed any fraud or material misrepresentation or concealment in obtaining or maintaining the license.

(2) The license was obtained due to the mistake or inadvertence of the board or the director.

(3) The licensee has knowingly or repeatedly violated any of the provisions of this chapter or of the rules promulgated by the board in accordance with this chapter or authorized or directed another so to act.

(4) The licensee has knowingly or repeatedly violated rules promulgated by the department of social and health services or the state board of health concerning patient care in a manner demonstrating a substantial disregard for patient health and safety.

(5) The licensee is unable to administer a nursing home with due regard for patient health and safety by reason of habitual, intemperate use of alcohol, controlled

substances, or other chemicals or materials; or the licensee is similarly incapacitated by mental illness, insanity, mental disorder or some condition or situation requiring entry of an order for a guardianship, and such mental status or the need of a guardianship has been determined to exist by a court of competent jurisdiction: *Provided*, That the board, when considering cases under this subsection, shall endeavor to encourage the recovery and rehabilitation of the administrator and the maintenance of the administrator's livelihood, but always subject to the primary objective of protecting patient health and safety.

(6) The licensee has committed any acts which, whether or not criminal prosecutions occur, constitute fraud, forgery, wrongful obtaining of funds, theft, larceny by trick, scheme or device, assault in the first, second or third degree, bribery or corrupt influence, or solicitation or conspiracy to commit any of said offenses: *Provided*, That if some form of intent is required to render any such acts criminal such intent shall also be required to permit action against the licensee under this subsection, and liability under this subsection may be determined pursuant to the principles of liability set forth in RCW 9A.08.020.

(7) The licensee has been grossly negligent or committed gross misconduct in the administration of a nursing home.

(8) The licensee has participated in or has offered or agreed to participate in, any arrangement whereby any payment or rebate is given to any party in return for the referral of a patient to the facility the licensee administers, or for referral by such licensee of a patient to any party for rendition of professional services to such patient.

(9) The licensee or applicant has previously been refused a license as an administrator or had renewal thereof refused, or has had such a license suspended or revoked by any competent state, federal, or foreign authority: *Provided*, That a suspension, revocation, refusal to issue or refusal to reregister a license under this subsection must be based upon a showing in the record of such previous proceedings which would constitute a proper basis for the action proposed under the provisions of this chapter, and the licensee or applicant shall, on request, have the opportunity to challenge the fairness of the previous proceedings or the correctness of the factual determinations involved.

Administrators whose licenses have been revoked, or to whom reregistration has been refused, may, on subsequent application be licensed, relicensed, or reregistered, according to such rules or regulations as may be prescribed by the board and according to standards prescribed by the board. Suspended licenses are automatically in force at the expiration of the period of suspension specified in the board's order, but must be reregistered in the normal course if they expire during the period of suspension. [1977 1st ex.s. c 243 § 5; 1975 1st ex.s. c 97 § 2; 1970 ex.s. c 57 § 12.]

18.52.150 Proceedings—Hearings—Appeals—Investigations. Unless otherwise specifically provided in this chapter, all proceedings under this

chapter of the director and board for rule making, for the hearings required by this chapter, for contested cases and for appeals shall be conducted in conformity with the administrative procedure act. In matters involving reprimand, suspension, revocation, refusal of reregistration, or denial of licenses, the board shall require clear, cogent, and convincing evidence before the board orders action. Complaints regarding any licensed administrator shall be considered only if submitted to the director in writing and signed. If a complaint indicates a possible violation of the provisions of this chapter, it shall be investigated by the director. Additionally, the director on his own initiative may, or, upon order of the board, shall, initiate an investigation of possible violations of this chapter. The director shall advise the board of all complaints received and action taken.

If, after investigation the chairman of the board, or the board, decides that there is reasonable cause to believe that grounds exist for a reprimand, or for denial, suspension, refusal of reregistration, or revocation of a license issued or to be issued under this chapter, the director shall notify the applicant or licensee in writing and serve him personally, or by certified mail, with return receipt requested, stating the grounds for the reprimand or upon which the license is to be denied, suspended, revoked or reregistration refused, and shall make available, upon request, so much of the investigative information as relates to any grounds asserted for proposed action.

Within twenty days of the service or receipt of notice of the alleged grounds for reprimand, denial, suspension, revocation, or refusal or reregistration, the applicant or licensee may serve upon the director a written request for hearing before the board. Service of a request for a hearing shall be made personally or by certified mail, return receipt requested, and in the latter event shall be addressed to the director at the director's office in Thurston county.

Upon receiving a request for a hearing, the director shall refer the matter to the board to arrange for a hearing. Hearings may be conducted by the board, by a committee of the board the majority of which shall be administrator members, a hearing officer engaged by the board who shall be a licensed administrator, or by a hearing examiner of the state.

If the applicant or licensee does not file a timely request for a hearing in accordance with the provisions of this section, the director shall refer the matter to the board for appropriate action which may be taken without further notice to the applicant or licensee. [1977 1st ex.s. c 243 § 6; 1970 ex.s. c 57 § 15.]

18.52.155 Authority to administer oaths—Compel attendance and testimony—Subpoenas—Contempt. In any investigation or proceeding authorized in this chapter, the director, the board, any committee of the board, and any hearing officer conducting a contested case, shall have authority to administer oaths and take testimony, issue subpoenas requiring attendance of witnesses, together with relevant books, memoranda, papers, and other documents, articles, or instruments, and to discover from such witnesses all relevant facts

known to them. In a contested case subpoenas shall be issued at the request of a party.

If an individual fails to obey the subpoena or obeys the subpoena but refuses to testify concerning matters relevant to the investigation or proceedings, the issuer of the subpoena may petition the superior court of the county where the investigation or proceeding is being conducted for enforcement of the subpoena. The petition shall be accompanied by a copy of the subpoena and proof of service, and shall set forth in what specific manner the subpoena has not been complied with, and shall ask an order of the court to compel the witness to appear and testify before the agency. The court may enter an order directing the witness to appear before the court at a time and place fixed in such order to show cause why he has not responded to the subpoena or has refused to testify. A copy of such order shall be served upon the witness. If it then 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 items required, and on failing to obey the order the witness shall be subject to being held in contempt of court. [1977 1st ex.s. c 243 § 7.]

Chapter 18.57A

OSTEOPATHIC PHYSICIANS' ASSISTANTS

Sections

18.57A.070 Performance of acupuncture.

18.57A.070 Performance of acupuncture. (1) The performance of acupuncture for the purpose of demonstration, therapy, or the induction of analgesia by a person licensed under this chapter shall be within the scope of practice authorized: *Provided, however,* That a person licensed to perform acupuncture under this section shall only do so under the direct supervision of a licensed osteopathic physician.

(2) The board shall determine the qualifications of a person authorized to perform acupuncture under subsection (1) of this section. In establishing a procedure for certification of such practitioners the board shall consider a license or certificate which acknowledges that the person has the qualifications to practice acupuncture issued by the government of the Republic of China (Taiwan), the Peoples' Republic of China, British Crown Colony of Hong Kong, Korea, Great Britain, France, the Federated Republic of Germany (West Germany), Italy, Japan, or any other country or state which has generally equivalent standards of practices of acupuncture as determined by the board as evidence of such qualification.

(3) As used in this section "acupuncture" means the insertion of needles into the human body by piercing the skin of the body for the purpose of relieving pain, treating disease, or to produce analgesia, or as further defined by rules and regulations of the board. [1977 1st ex.s. c 233 § 1.]

Chapter 18.64A

PHARMACY ASSISTANTS

Sections

18.64A.010	Definitions.
18.64A.020	Regulations fixing classification, qualifications, educational requirements, training programs, supervision, etc.
18.64A.030	Regulations governing services which may be performed by pharmacy assistants—Certification to levels of classification.
18.64A.040	Limitations on practice by pharmacy assistants.
18.64A.050	Grounds for refusal, suspension or revocation of pharmacy assistant's certificate—Hearing—Appeal.
18.64A.060	Pharmacy's application for pharmacy assistant—Fee—Approval or rejection by board—Hearing—Appeal.
18.64A.070	Persons presently acting as pharmacy assistants—Pharmacies presently employing persons acting as pharmacy assistants.
18.64A.080	Pharmacy's or pharmacist's liability, responsibility.
18.64A.900	Severability—1977 1st ex.s. c 101.

18.64A.010 Definitions. Terms used in this chapter shall have the meaning set forth in this section unless the context clearly indicates otherwise:

- (1) "Board" means the state board of pharmacy;
- (2) "Pharmacist" means a person duly licensed by the state board of pharmacy to engage in the practice of pharmacy;
- (3) "Pharmacy" means every place properly licensed by the board of pharmacy where the practice of pharmacy is conducted;
- (4) "Pharmacy assistant level A" means:
 - (a) A person who is enrolled in, or who has satisfactorily completed, a board approved training program designed to prepare persons to perform nondiscretionary functions associated with the practice of pharmacy; or
 - (b) A person who is a graduate with a degree in pharmacy or medicine of a foreign school, university, or college recognized by the board;
- (5) "Pharmacy assistant level B" means a person certified by the board to perform limited functions in the pharmacy;
- (6) "Practice of pharmacy" means the definition given in RCW 18.64.011, as now or hereafter amended. [1977 1st ex.s. c 101 § 1.]

18.64A.020 Regulations fixing classification, qualifications, educational requirements, training programs, supervision, etc. (1) The board shall adopt, in accordance with chapter 34.04 RCW, rules and regulations fixing the classification and qualifications and the educational and training requirements for persons who may be employed as pharmacy assistants or who may be enrolled in any pharmacy assistant training program. Such regulations shall provide that:

- (a) Licensed pharmacists shall supervise the training of pharmacy assistants; and
- (b) Training programs shall assure the competence of pharmacy assistants to aid and assist pharmacy operations. Training programs shall consist of instruction and/or practical training.

(2) The board may disapprove or revoke approval of any training program for failure to conform to board rules and regulations. In the case of the disapproval or

revocation of approval of a training program by the board, a hearing shall be conducted in accordance with RCW 18.64.160 as now or hereafter amended, and appeal may be taken in accordance with the Administrative Procedure Act, chapter 34.04 RCW. [1977 1st ex.s. c 101 § 2.]

18.64A.030 Regulations governing services which may be performed by pharmacy assistants—Certification to levels of classification. The board shall adopt, in accordance with chapter 34.04 RCW, rules and regulations governing the extent to which pharmacy assistants may perform services associated with the practice of pharmacy during training and after successful completion of a training course. Such regulations shall provide for the certification of pharmacy assistants at a uniform annual fee to be determined by the board according to the following levels of classification:

(1) "Level A pharmacy assistants" may assist in performing, under the immediate supervision and control of a licensed pharmacist, manipulative, nondiscretionary functions associated with the practice of pharmacy.

(2) "Level B pharmacy assistants" may perform, under the general supervision of a licensed pharmacist, duties including but not limited to, typing of prescription labels, filing, refiling, bookkeeping, pricing, stocking, delivery, nonprofessional phone inquiries, and documentation of third party reimbursements. [1977 1st ex.s. c 101 § 3.]

18.64A.040 Limitations on practice by pharmacy assistants. (1) A pharmacy assistant shall practice pharmacy in this state only after authorization by the board and only to the extent permitted by the board in accordance with this chapter.

(2) A pharmacist shall be assisted by a pharmacy assistant in the practice of pharmacy in this state only after authorization by the board and only to the extent permitted by the board in accordance with this chapter: *Provided*, That no pharmacist may supervise more than one person performing level A pharmacy assistant duties and functions: *Provided further*, That in pharmacies operating in connection with facilities licensed pursuant to chapters 70.41 or 71.12 RCW, whether or not situated within the said facility, the ratio of pharmacists to persons performing level A pharmacy assistant duties and functions shall be as follows: in the preparation of medicine or other materials used by patients within the facility, one pharmacist supervising no more than three persons performing level A pharmacy assistant duties and functions; in the preparation of medicine or other materials dispensed to persons not patients within the facility, one pharmacist supervising not more than one person performing level A pharmacy assistant duties and functions. [1977 1st ex.s. c 101 § 4.]

18.64A.050 Grounds for refusal, suspension or revocation of pharmacy assistant's certificate—Hearing—Appeal. The board of pharmacy shall have the power to refuse, suspend, or revoke the certificate of any pharmacy assistant upon proof that:

(1) His or her certificate was procured through fraud, misrepresentation or deceit;

(2) He or she has been found guilty of any offense in violation of the laws of this state relating to drugs, poisons, cosmetics or drug sundries by any court of competent jurisdiction: *Provided*, That nothing herein shall be construed to affect or alter the provisions of RCW 9.96A.020;

(3) He or she is unfit to perform his or her duties because of habitual intoxication or abuse of controlled substances;

(4) He or she has exhibited gross incompetency in the performance of his or her duties;

(5) He or she has wilfully or repeatedly violated any of the rules and regulations of the board of pharmacy;

(6) He or she has wilfully or repeatedly performed duties beyond the scope of his or her certificate in violation of the provisions of this chapter; or

(7) He or she has impersonated a licensed pharmacist.

In any case of the refusal, suspension or revocation of a certificate by the board, a hearing shall be conducted in accordance with RCW 18.64.160, as now or hereafter amended, and appeal may be taken in accordance with the Administrative Procedure Act, chapter 34.04 RCW. [1977 1st ex.s. c 101 § 5.]

18.64A.060 Pharmacy's application for pharmacy assistant—Fee—Approval or rejection by board—Hearing—Appeal. No pharmacy licensed in this state shall utilize the services of pharmacy assistants without approval of the board.

Any pharmacy licensed in this state may apply to the board for permission to use the services of pharmacy assistants. The application shall be accompanied by a uniform fee to be determined by the board, shall detail the manner and extent to which the pharmacy assistants would be used and supervised, and shall provide other information in such form as the board may require.

The board may approve or reject such applications. In addition, the board may modify the proposed utilization of pharmacy assistants and approve the application as modified. No such approval shall extend for more than one year, but approval once granted may be renewed annually upon payment of a uniform fee as determined by the board. Whenever it appears to the board that a pharmacy assistant is being utilized in a manner inconsistent with the approval granted, the board may withdraw such approval. In the event a hearing is requested upon the rejection of an application, or upon the withdrawal of approval, a hearing shall be conducted in accordance with chapter 18.64 RCW, as now or hereafter amended, and appeal may be taken in accordance with the Administrative Procedure Act, chapter 34.04 RCW. [1977 1st ex.s. c 101 § 6.]

18.64A.070 Persons presently acting as pharmacy assistants—Pharmacies presently employing persons acting as pharmacy assistants. (1) Persons presently assisting a pharmacist by performing the functions of a pharmacy assistant may continue to do so under the supervision of a licensed pharmacist: *Provided*, That

within eighteen months after May 28, 1977, such persons shall be in compliance with the provisions of this chapter.

(2) Pharmacies presently employing persons to perform the functions of a pharmacy assistant may continue to do so while obtaining board approval for the use of certified pharmacy assistants: *Provided*, That within eighteen months after May 28, 1977, such pharmacies shall be in compliance with the provisions of this chapter. [1977 1st ex.s. c 101 § 7.]

18.64A.080 Pharmacy's or pharmacist's liability, responsibility. No pharmacy or pharmacist which utilizes the services of a pharmacy assistant with approval by the board, shall be considered as aiding and abetting an unlicensed person to practice pharmacy within the meaning of chapter 18.64 RCW, as now or hereafter amended: *Provided, however*, That the pharmacy or pharmacist shall retain responsibility for any act performed by a pharmacy assistant in the course of his or her employment. [1977 1st ex.s. c 101 § 8.]

18.64A.900 Severability—1977 1st ex.s. c 101. 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. [1977 1st ex.s. c 101 § 10.]

Chapter 18.71 PHYSICIANS

Sections

18.71.020	Licensing required—Penalties, enforcement—Exemptions—Remittance of justice court fines, fees, penalties and forfeitures.
18.71.200	Physician's trained mobile intravenous therapy technicians, physician's trained mobile airway management technicians, physician's trained mobile intensive care paramedics—Definitions.
18.71.205	Physician's trained mobile intravenous therapy technicians, airway management technicians, mobile intensive care paramedics—Certification and recertification standards and requirements—"Approved licensed physician" defined.
18.71.210	Physician's trained mobile intravenous therapy technicians, airway management technicians, mobile intensive care paramedics—Liability for acts or omissions.

18.71.020 Licensing required—Penalties, enforcement—Exemptions—Remittance of justice court fines, fees, penalties and forfeitures. Any person who shall practice or attempt to practice or hold himself out as practicing medicine in this state, without having, at the time of so doing, a valid, unrevoked license as provided in this chapter, shall be guilty of a gross misdemeanor: *Provided*, That nothing in this section shall be so construed as to prohibit or penalize emergency lifesaving service rendered by a physician's trained mobile intravenous therapy technician, by a physician's trained mobile airway management technician, or by a physician's trained mobile intensive care paramedic, as

defined in RCW 18.71.200 as now or hereafter amended, if such emergency lifesaving service be rendered under the responsible supervision and control of a licensed physician. In each such conviction the fine shall be paid, when collected, to the state treasurer: *Provided*, That all fees, fines, forfeitures and penalties collected or assessed by a justice court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. The director is authorized to prosecute all persons guilty of a violation of the provisions of this chapter. [1977 c 55 § 1; 1975 1st ex.s. c 171 § 3; 1971 ex.s. c 305 § 1; 1969 ex.s. c 199 § 18; 1961 c 284 § 3; 1919 c 134 § 8; 1909 c 192 § 14; RRS § 10018. Prior: 1890 p 119 § 8; Code 1881 § 2290.]

Persons licensed under prior laws: "Any person who holds a license from the board of medical examiners heretofore existing, under the provisions of any laws of this state, past or present, shall be entitled to practice medicine and surgery in this state the same as if issued under this act: *Provided, however*, That all licenses herein mentioned may be revoked for unprofessional conduct, in the same manner and upon the same grounds as if issued under this act." [1909 c 192 § 17.]

18.71.200 Physician's trained mobile intravenous therapy technicians, physician's trained mobile airway management technicians, physician's trained mobile intensive care paramedics—Definitions. (1) As used in RCW 18.71.020 as now or hereafter amended, a "physician's trained mobile intravenous therapy technician" means a person who:

(a) Has successfully completed an emergency medical technician course as described in chapter 18.73 RCW;

(b) Is trained by an approved licensed physician to administer intravenous solutions under written or oral authorization of an approved licensed physician; and

(c) Has been examined and certified as a physician's trained mobile intravenous therapy technician by the University of Washington's school of medicine or the department of social and health services;

(2) As used in RCW 18.71.020 as now or hereafter amended, a "physician's trained mobile airway management technician" means a person who:

(a) Has successfully completed an emergency medical technician course as described in chapter 18.73 RCW;

(b) Is trained by an approved licensed physician to perform endotracheal airway management and other authorized aids to ventilation under written or oral authorization of an approved licensed physician; and

(c) Has been examined and certified as a physician's trained mobile airway management technician by the University of Washington's school of medicine or the department of social and health services; and

(3) As used in RCW 18.71.020 as now or hereafter amended, a "physician's trained mobile intensive care paramedic" means a person who:

(a) Has successfully completed an emergency medical technician course as described in chapter 18.73 RCW;

(b) Is trained by an approved licensed physician:

(i) To carry out all phases of advanced cardiac life support;

(ii) To administer drugs under written or oral authorization of a licensed physician; and

(iii) To administer intravenous solutions under written or oral authorization of an approved licensed physician; and

(iv) To perform endotracheal airway management and other authorized aids to ventilation; and

(c) Has been examined and certified as a physician's trained mobile intensive care paramedic by the University of Washington's school of medicine or by the department of social and health services. [1977 c 55 § 2; 1973 1st ex.s. c 52 § 1; 1971 ex.s. c 305 § 2.]

18.71.205 Physician's trained mobile intravenous therapy technicians, airway management technicians, mobile intensive care paramedics—Certification and recertification standards and requirements—"Approved licensed physician" defined. (1) The secretary of the department of social and health services, in conjunction with the advice and assistance of the emergency medical and ambulance review committee as prescribed in RCW 18.73.050, and the board of medical examiners, shall prescribe:

(a) Minimum standards and performance requirements for the certification and recertification of physician's trained intravenous therapy technicians, airway management technicians, and mobile intensive care paramedics; and

(b) Procedures for certification, recertification, and decertification of physician's trained intravenous therapy technicians, airway management technicians, and mobile intensive care paramedics.

(2) Initial certification shall be for a period of two years.

(3) Recertification shall be granted upon proof of continuing satisfactory performance and education, and shall be for a period of two years.

(4) As used in chapter 18.71 RCW, "approved licensed physician" means a person who:

(a) Is licensed to practice medicine and surgery pursuant to chapter 18.71 RCW or osteopathy and surgery pursuant to chapter 18.57 RCW; and

(b) Is qualified and knowledgeable in the management of emergency care and services; and

(c) Is so certified by the department of social and health services. [1977 c 55 § 3.]

18.71.210 Physician's trained mobile intravenous therapy technicians, airway management technicians, mobile intensive care paramedics—Liability for acts or omissions. No act or omission of any physician's trained mobile intensive care paramedic, intravenous therapy technician, or airway management technician, as defined in RCW 18.71.200 as now or hereafter amended, done or omitted in good faith while rendering emergency medical service under the responsible supervision and control of a licensed physician to a person who is in imminent danger of loss of life or has suffered grievous bodily injury shall impose any liability upon:

(1) The trained mobile intensive care paramedic, intravenous therapy technician, or airway management technician;

(2) The supervising physician;

(3) Any hospital, the officers, members of the staff, nurses, or other employees of a hospital;

(4) Any training agency or training physician;

(5) Any licensed ambulance service; or

(6) A federal, state, county, city or other local governmental unit or employees of such a governmental unit.

This section shall only apply to an act or omission committed or omitted in the performance of the actual emergency medical procedures and not in the commission or omission of an act which is not within the field of medical expertise of the physician's trained mobile intensive care paramedic, intravenous therapy technician, or airway management technician, as the case may be.

This section shall not relieve a physician or a hospital of any duty otherwise imposed by law upon such physician or hospital for the designation or training of a physician's trained mobile intensive care paramedic, intravenous therapy technician, or airway management technician, nor shall this section relieve any individual or other entity listed in this section of any duty otherwise imposed by law for the provision or maintenance of equipment to be used by the physician's trained mobile intensive care paramedics, intravenous therapy technicians, or airway management technicians.

This section shall not apply to any act or omission which constitutes either gross negligence or wilful or wanton conduct. [1977 c 55 § 4; 1971 ex.s. c 305 § 3.]

Chapter 18.71A PHYSICIANS' ASSISTANTS

Sections

18.71A.080 Performance of acupuncture.

18.71A.080 Performance of acupuncture. (1) The performance of acupuncture for the purpose of demonstration, therapy, or the induction of analgesia by a person licensed under this chapter shall be within the scope of practice authorized: *Provided, however,* That a person licensed to perform acupuncture under this section shall only do so under the direct supervision of a licensed physician.

(2) The board shall determine the qualifications of a person authorized to perform acupuncture under subsection (1) of this section. In establishing a procedure for certification of such practitioners the board shall consider a license or certificate which acknowledges that the person has the qualifications to practice acupuncture issued by the government of the Republic of China (Taiwan), the Peoples' Republic of China, British Crown Colony of Hong Kong, Korea, Great Britain, France, the Federated Republic of Germany (West Germany), Italy, Japan, or any other country or state which has generally equivalent standards of practices of acupuncture as determined by the board as evidence of such qualification.

(3) As used in this section "acupuncture" means the insertion of needles into the human body by piercing the

skin of the body for the purpose of relieving pain, treating disease, or to produce analgesia, or as further defined by rules and regulations of the board. [1977 1st ex.s. c 233 § 2.]

Chapter 18.72 MEDICAL DISCIPLINARY BOARD

Sections

18.72.040 Board created—Composition—Legal advisor.
18.72.050 Election of members.

18.72.040 Board created—Composition—Legal advisor. There is hereby created the "Washington state medical disciplinary board," which shall be composed of one holder of a valid license to practice medicine and surgery from each congressional district now existing or hereafter created in the state and one member of the public who meets the qualifications contained in RCW 70.39.020(2) shall be appointed by the governor. The public member's term shall be for two years commencing on October 1st of each odd-numbered year. The board shall be an administrative agency of the state of Washington. The attorney general shall be the advisor of the board and shall represent it in all legal proceedings. [1977 c 71 § 1; 1955 c 202 § 4.]

18.72.050 Election of members. Members of the board, except the public member, shall be elected by secret mail ballot by the holders of licenses to practice medicine and surgery residing in each congressional district and shall hold office until their successors are elected and qualified. Members from even-numbered congressional districts shall be elected in even-numbered years and members from odd-numbered congressional districts shall be elected in odd-numbered years. [1977 c 71 § 2; 1955 c 202 § 5.]

Chapter 18.74 PHYSICAL THERAPY

Sections

18.74.120 Rules and regulations—Record of proceedings—Register.

18.74.120 Rules and regulations—Record of proceedings—Register. The director of motor vehicles is authorized to adopt reasonable rules and regulations to carry this chapter into effect and may amend and revoke such rules at his discretion. The director of motor vehicles shall keep a record of proceedings under this chapter and a register of all persons registered under it. The register shall show the name of every living registrant, his last known place of business and last known place of residence and the date and number of his registration and certificate as a registered physical therapist. The director of motor vehicles shall, during the month of April of every year in which the renewal of registration is required, publish a list of registered physical therapists authorized to practice physical therapy in the state and shall, upon request, furnish a copy of that list to the

prosecuting attorney of any county, to the superintendent of any hospital in the state, and to any physician licensed in this state to practice medicine and surgery: *Provided*, That such lists shall be furnished by the director upon payment of such amount as may be fixed by him, which amount shall not exceed the cost of the list so furnished. [1977 c 75 § 11; 1949 c 239 § 12; Rem. Supp. 1949 § 10163-12.]

Reviser's note: "director of motor vehicles" redesignated as "director of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Administrative procedure act: Chapter 34.04 RCW.

Chapter 18.82 PROPRIETARY SCHOOLS

Sections

18.82.010 through 18.82.920 Repealed. (Effective June 30, 1979.)

18.82.010 through 18.82.920 Repealed. (Effective June 30, 1979.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 18.83 PSYCHOLOGISTS

Sections

18.83.090 Licenses—Renewal—Continuing education requirements.

18.83.090 Licenses—Renewal—Continuing education requirements. Each licensed psychologist shall pay to the state treasurer, on or before the tenth day of January of each year, an annual license renewal fee determined by the director as provided in RCW 43.24-.085 as now or hereafter amended. The board shall establish rules governing mandatory continuing education requirements which shall be met by any psychologist applying for a license renewal. The director shall issue a certificate of renewal in such form as the director shall determine. [1977 c 58 § 1; 1975 1st ex.s. c 30 § 74; 1971 ex.s. c 266 § 16; 1965 c 70 § 9; 1955 c 305 § 9.]

Chapter 18.85 REAL ESTATE BROKERS AND SALESMEN

Sections

18.85.010 Definitions.
18.85.085 Commission—Educational conferences—Examinations of applicants for licenses.
18.85.095 Salesmen—Minimum qualifications of applicant—Renewal.
18.85.110 Exemptions from license requirement.
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- 18.85.410 Repealed.
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- 18.85.470 Land development representative—Authorized activities—"Land development" defined.
- 18.85.480 Land development representative—Responsibility of employing broker—Violations.

18.85.010 Definitions. In this chapter words and phrases have the following meanings unless otherwise apparent from the context:

(1) "Real estate broker," or "broker," means a person, while acting for another for commissions or other compensation or the promise thereof, or a licensee under this chapter while acting in his own behalf, who:

(a) Sells or offers for sale, lists or offers to list, buys or offers to buy real estate or business opportunities, or any interest therein, for others;

(b) Negotiates or offers to negotiate, either directly or indirectly, the purchase, sale, exchange, lease, or rental of real estate or business opportunities, or any interest therein, for others;

(c) Advertises or holds himself out to the public by any oral or printed solicitation or representation that he is so engaged; or

(d) Engages, directs, or assists in procuring prospects or in negotiating or closing any transaction which results or is calculated to result in any of these acts;

(2) "Real estate salesman" or "salesman" means any natural person employed, either directly or indirectly, by a real estate broker, or any person who represents a real estate broker in the performance of any of the acts specified in subsection 1 [(1)] of this section;

(3) An "associate real estate broker" is a person who has qualified as a "real estate broker" who works with a broker and whose license states that he is associated with a broker;

(4) The word "person" as used in this chapter shall be construed to mean and include a corporation or copartnership, except where otherwise restricted;

(5) "Business opportunity" shall mean and include business, business opportunity and good will of an existing business or any one or combination thereof;

(6) "Commission" means the real estate commission of the state of Washington;

(7) "Director" means the director of motor vehicles;

(8) "Real estate multiple listing association" means any association of real estate brokers:

(a) Whose members circulate listings of the members among themselves so that the properties described in the

listings may be sold by any member for an agreed portion of the commission to be paid; and

(b) Which require in a real estate listing agreement between the seller and the broker, that the members of the real estate multiple listing association shall have the same rights as if each had executed a separate agreement with the seller;

(9) "Clock hours of instruction" means actual hours spent in classroom instruction in any tax supported, public vocational-technical institution, community college, or any other institution of higher learning or a correspondence course from any of the aforementioned institutions certified by such institution as the equivalent of the required number of clock hours, and the real estate commission may certify courses of instruction other than in the aforementioned institutions; and

(10) "Incapacitated" means the physical or mental inability to perform the duties of broker prescribed by this chapter. [1977 1st ex.s. c 370 § 1; 1973 1st ex.s. c 57 § 1; 1972 ex.s. c 139 § 1; 1969 c 78 § 1; 1953 c 235 § 1; 1951 c 222 § 1; 1943 c 118 § 1; 1941 c 252 § 2; Rem. Supp. 1943 § 8340-25. Prior: 1925 ex.s. c 129 § 4.]

Reviser's note: The "director of motor vehicles" redesignated the "director of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

18.85.085 Commission—Educational conferences—Examinations of applicants for licenses. The commission shall have authority to hold educational conferences for the benefit of the industry, and shall conduct examinations of applicants for licenses under this chapter. It shall be charged with the preparation of such examinations and shall administer them at least once a month, with not less than six examinations per year in each of the following six areas of the state: Northwest Washington, southwest Washington, northeast Washington, southeast Washington, north central Washington, and south central Washington. [1977 1st ex.s. c 24 § 1; 1953 c 235 § 18.]

18.85.095 Salesmen—Minimum qualifications of applicant—Renewal. It is hereby established that the minimum requirements for an individual to receive a salesman's license are that the individual:

- (1) Is eighteen years of age or older;
- (2) Is a resident of the state of Washington; and
- (3) Has passed a salesman's examination.

No licensed salesman shall have his license renewed a second time unless he furnishes proof, as the director may require, that he has successfully completed thirty clock hours of instruction in real estate courses approved by the director.

Nothing in this section shall apply to persons who are licensed as salesmen under any real estate license law in Washington which exists prior to this law's enactment and whose license has not been subsequently revoked. [1977 1st ex.s. c 370 § 2; 1972 ex.s. c 139 § 7.]

18.85.110 Exemptions from license requirement. This chapter shall not apply to (1) any person who purchases property and/or a business opportunity for his own account, or that of a group of which he is a member, or who, as the owner or part owner of property,

and/or a business opportunity, in any way disposes of the same; nor, (2) any duly authorized attorney in fact, or an attorney at law in the performance of his duties; nor, (3) any receiver, trustee in bankruptcy, executor, administrator, guardian, or any person acting under the order of any court, or selling under a deed of trust; nor, (4) any secretary, bookkeeper, accountant, or other office personnel who does not engage in any conduct or activity specified in any of the definitions under RCW 18.85.010; nor, (5) any owner of rental or lease property, members of the owner's family whether or not residing on such property, or a resident manager of a complex of residential dwelling units wherein such manager resides; nor, (6) any person who manages residential dwelling units on an incidental basis and not as his principal source of income so long as that person does not advertise or hold himself out to the public by any oral or printed solicitation or representation that he is so engaged. [1977 1st ex.s. c 370 § 9; 1972 ex.s. c 139 § 10; 1951 c 222 § 9; 1941 c 252 § 3; Rem. Supp. 1941 § 8340-26. Prior: 1925 ex.s. c 129 § 4.]

18.85.120 Applications—Conditions—Fees (as amended by 1977 1st ex.s. c 24). Any person desiring to be a real estate broker, associate real estate broker, or real estate salesman with the exception of applicants meeting the requirements of RCW 18.85.161, must successfully pass an examination as provided in this chapter, and shall make application to the director for a license, and upon a form to be prescribed and furnished by the director, giving his full name and business address. With this application the applicant shall:

(1) Pay an examination fee of twenty-five dollars if a salesman's license is applied for and of forty dollars if a broker's license is applied for, such fees to accompany the application.

(2) If the applicant is a corporation, furnish a list of its officers and directors and their addresses, and if the applicant is a copartnership, a list of the members thereof and their addresses.

(3) If the applicant is a nonresident of this state, give an irrevocable consent that suits and actions may be commenced against him in any county of this state in which the plaintiff resides, and that service of any process or pleadings may be made by delivery thereof to the director. Such service shall be held in all courts as valid and binding upon the applicant. The irrevocable consent shall be in a form prescribed by the director, acknowledged before a notary public and, if the applicant is a corporation, shall be accompanied by a certified copy of the resolution of the board of directors authorizing the execution of the same. Any process or pleading so served upon the director shall be in duplicate copies, one of which shall be filed in the office of the director, and the other immediately forwarded by registered mail to the office address of the applicant given in his application, and service shall be deemed to have been made upon the applicant on the third day following the deposit in the mail of such copy.

(4) Furnish such other proof as the director may require concerning the honesty, truthfulness, and good reputation, as well as the identity, including but not limited to fingerprints, of any applicants for a license, or of the officers of a corporation making the application. [1977 1st ex.s. c 24 § 2; 1973 1st ex.s. c 42 § 1; 1953 c 235 § 6; 1951 c 222 § 10. Formerly: (i) 1947 c 203 § 1, part; 1945 c 111 § 3, part; 1943 c 118 § 2, part; 1941 c 252 § 11, part; Rem. Supp. 1947 § 8340-34, part; prior: 1925 ex.s. c 129 §§ 10, 11. (ii) 1947 c 203 § 3; 1945 c 111 § 6; 1941 c 252 § 16; Rem. Supp. 1947 § 8340-39.]

18.85.120 Applications—Conditions—Fees (as amended by 1977 1st ex.s. c 370). Any person desiring to be a real estate broker, associate real estate broker, or real estate salesman with the exception of applicants meeting the requirements of RCW 18.85.161, must successfully pass an examination as provided in this chapter, and shall make application to the director for a license, and upon a form to be prescribed and furnished by the director, giving his full name and business address. With this application the applicant shall:

(1) Pay an examination fee of fifteen dollars if a salesman's license is applied for and of twenty-five dollars if a broker's license is applied for, such fees to accompany the application.

(2) If the applicant is a corporation, furnish a list of its officers and directors and their addresses, and if the applicant is a copartnership, a list of the members thereof and their addresses.

(3) Furnish such other proof as the director may require that the applicant is a resident of the state of Washington or, if the applicant is a corporation or copartnership, that the designated broker of the corporation or copartnership is a resident of the state of Washington.

(4) Furnish such other proof as the director may require concerning the honesty, truthfulness, and good reputation, as well as the identity, including but not limited to fingerprints, of any applicants for a license, or of the officers of a corporation making the application. [1977 1st ex.s. c 370 § 3; 1973 1st ex.s. c 42 § 1; 1953 c 235 § 6; 1951 c 222 § 10. Formerly: (i) 1947 c 203 § 1, part; 1945 c 111 § 3, part; 1943 c 118 § 2, part; 1941 c 252 § 11, part; Rem. Supp. 1947 § 8340-34, part; prior: 1925 ex.s. c 129 §§ 10, 11. (ii) 1947 c 203 § 3; 1945 c 111 § 6; 1941 c 252 § 16; Rem. Supp. 1947 § 8340-39.]

Reviser's note: RCW 18.85.120 was amended twice during the 1977 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once during the same session, see RCW 1.12.025.

18.85.140 License fees—Expiration—Renewal—Identification cards (as amended by 1977 1st ex.s. c 24). Before receiving his license every real estate broker must pay a license fee of forty dollars, every associate real estate broker must pay a license fee of forty dollars, and every real estate salesman must pay a license fee of twenty-five dollars. Every license issued under the provisions of this chapter expires on the applicant's birthday following issuance of the license which date will henceforth be the renewal date. Licenses issued to corporations and partnerships expire December 31st, which date will henceforth be their renewal date. On or before the renewal date an annual renewal license fee in the same amount must be paid.

If the application for a renewal license is not received by the director on or before the renewal date, the renewal license fee shall be fifty-five dollars for a real estate broker and associate real estate broker and thirty-five dollars for a real estate salesman. Acceptance by the director of an application for renewal after the renewal date shall not be a waiver of the delinquency.

The director shall issue to each broker, associate broker, and salesman a license and a pocket identification card in such form and size as he shall prescribe. [1977 1st ex.s. c 24 § 3; 1972 ex.s. c 139 § 12; 1953 c 235 § 7; 1951 c 222 § 12. Formerly: (i) 1947 c 203 § 2, part; 1945 c 111 § 4, part; 1941 c 252 § 12, part; Rem. Supp. 1947 § 8340-35, part. (ii) 1947 c 203 § 1, part; 1945 c 111 § 3, part; 1943 c 118 § 2, part; 1941 c 252 § 11, part; Rem. Supp. 1947 § 8340-34, part; prior: 1925 ex.s. c 129 §§ 10, 11.]

18.85.140 License fees—Expiration—Renewal—Identification cards (as amended by 1977 1st ex.s. c 370). Before receiving his license every real estate broker must pay a license fee of twenty-five dollars, every associate real estate broker must pay a license fee of twenty-five dollars, and every real estate salesman must pay a license fee of fifteen dollars. Every license issued under the provisions of this chapter expires on the applicant's birthday following issuance of the license which date will henceforth be the renewal date. Licenses issued to corporations and partnerships expire December 31st, which date will henceforth be their renewal date. On or before the renewal date an annual renewal license fee in the same amount must be paid.

If the application for a renewal license is not received by the director on or before the renewal date, the renewal license fee shall be thirty-five dollars for a real estate broker and associate real estate broker and twenty dollars for a real estate salesman. Acceptance by the director of an application for renewal after the renewal date shall not be a waiver of the delinquency.

The license of any person whose license renewal fee is not received within one year from the date of expiration shall be canceled. This person may obtain a new license by satisfying the procedures and qualifications for initial licensing, including the successful completion of any applicable examinations.

The director shall issue to each active licensee a license and a pocket identification card in such form and size as he shall prescribe. [1977 1st ex.s. c 370 § 4; 1972 ex.s. c 139 § 12; 1953 c 235 § 7; 1951 c 222 § 12. Formerly: (i) 1947 c 203 § 2, part; 1945 c 111 § 4, part; 1941 c 252 § 12, part; Rem. Supp. 1947 § 8340-35, part. (ii) 1947 c 203 § 1, part; 1945 c 111 § 3, part; 1943 c 118 § 2, part; 1941 c 252 § 11, part; Rem. Supp. 1947 § 8340-34, part; prior: 1925 ex.s. c 129 §§ 10, 11.]

Reviser's note: RCW 18.85.140 was amended twice during the 1977 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once during the same session, see RCW 1.12.025.

18.85.150 Temporary permits (as amended by 1977 1st ex.s. c 24).

A temporary broker's permit may, in the discretion of the director, be issued to the legally accredited representative of a deceased broker, the senior qualified salesman in that office or other qualified representative of the deceased, which shall be valid for a period not exceeding four months and in the case of a partnership or a corporation, the same rule shall prevail in the selection of a person to whom a temporary broker's permit may be issued. [1977 1st ex.s. c 24 § 4; 1972 ex.s. c 139 § 13; 1953 c 235 § 8; 1951 c 222 § 13. Prior: (i) 1947 c 203 § 2, part; 1945 c 111 § 4, part; 1941 c 252 § 12, part; Rem. Supp. 1947 § 8340-35, part. (ii) 1947 c 203 § 1, part; 1945 c 111 § 3, part; 1943 c 118 § 2, part; 1941 c 252 § 11, part; Rem. Supp. 1947 § 8340-34, part; prior: 1925 ex.s. c 129 §§ 10, 11.]

18.85.150 Temporary permits (as amended by 1977 1st ex.s. c 370). A temporary broker's permit may, in the discretion of the director, be issued to the legally accredited representative of a deceased or incapacitated broker, the senior qualified salesman in that office or other qualified representative of the deceased or incapacitated broker, which shall be valid for a period not exceeding four months and in the case of a partnership or a corporation, the same rule shall prevail in the selection of a person to whom a temporary broker's permit may be issued. [1977 1st ex.s. c 370 § 5; 1972 ex.s. c 139 § 13; 1953 c 235 § 8; 1951 c 222 § 13. Prior: (i) 1947 c 203 § 2, part; 1945 c 111 § 4, part; 1941 c 252 § 12, part; Rem. Supp. 1947 § 8340-35, part. (ii) 1947 c 203 § 1, part; 1945 c 111 § 3, part; 1943 c 118 § 2, part; 1941 c 252 § 11, part; Rem. Supp. 1947 § 8340-34, part; prior: 1925 ex.s. c 129 §§ 10, 11.]

Reviser's note: RCW 18.85.150 was amended twice during the 1977 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once during the same session, see RCW 1.12.025.

18.85.155 Responsibility for conduct of salesman, associate broker or branch manager. Responsibility for any salesman, associate broker or branch manager in conduct covered by this chapter shall rest with the broker to which such licensees shall be licensed.

In addition to the broker, a branch manager shall bear responsibility for salesmen and associate brokers operating under the branch manager at a branch office. [1977 1st ex.s. c 370 § 6; 1972 ex.s. c 139 § 14.]

18.85.161 Nonresident brokers, salesmen—Licensing—Requirements—Reciprocity. A nonresident broker may apply for and be issued a nonresident broker's license upon compliance with all of the provisions of this chapter. He shall not be required to maintain a definite place of business within this state, but shall retain in this state all funds arising from transactions within this state, until such funds are distributed to the proper parties involved, and he shall be subject to the requirements of this chapter relating to the handling and depositing of closing funds.

Any privileges accorded herein to a nonresident shall apply only to a licensed real estate broker of two years' experience or more and only so long as the broker shall (1) maintain an active place of business within the state of his domicile, and (2) maintain his license in good standing in the state of his domicile: *Provided*, That such nonresident is domiciled in a state which extends similar

recognition and courtesies to licensed real estate brokers of this state. When any broker moves into this state from a state having similar reciprocal laws and desires a license, and if such broker has maintained a license in his home state in good standing prior to his moving into this state, he shall, in the discretion of the director, not be required to take the state examination for a license.

The director may waive the requirement of examination of any applicant for a license in the case of an application from a nonresident who is licensed in a state having similar requirements, under the laws of which, similar recognition and courtesies are extended to licensees of this state by mutual written agreement of the directors and commissions of the concerned states.

Salesmen employed by a nonresident broker who has been issued a nonresident broker's license may operate for such broker in this state upon payment of the license fee required of salesmen during such time as they continue licensed under the nonresident broker in this state and if such salesman maintains a license in good standing under his broker in his home state.

An applicant for a nonresident license shall irrevocably consent to having suits and actions commenced against him in any county of this state in which the plaintiff resides, and to service of any process or pleadings by delivery thereof to the director. The service shall be valid and binding upon the applicant. The consent shall be in a form prescribed by the director, acknowledged before a notary public, and, if the applicant is a corporation, shall be accompanied by a certified copy of the resolution of the board of directors authorizing the execution of the same. Any process or pleading so served upon the director shall be in duplicate. One copy shall be filed in the office of the director, and one copy shall be immediately forwarded by registered mail to the applicant's office address given in his application. Service shall be deemed to have been made upon the applicant on the third day following the deposit of the copy in the mail. [1977 1st ex.s. c 370 § 7; 1972 ex.s. c 139 § 15; 1953 c 235 § 9; 1951 c 222 § 21.]

18.85.190 Licenses—Branch office. A real estate broker may apply to the director for authority to establish one or more branch offices under the same name as the main office upon the payment of twenty-five dollars for each branch office. The director shall issue a duplicate license for each of the branch offices showing the location of the main office and the particular branch. Each duplicate license shall be prominently displayed in the office for which it is issued. Each branch office shall be required to have a branch manager who shall be an associate broker authorized by the designated broker to perform the duties of a branch manager.

A branch office license shall not be required where real estate sales activity is conducted on and, limited to a particular subdivision or tract, if a licensed office or branch office is located within thirty-five miles of the subdivision or tract. A real estate broker shall apply for a branch office license if real estate sales activity on the particular subdivision or tract is five days or more per week. [1977 1st ex.s. c 24 § 5; 1972 ex.s. c 139 § 17; 1957 c 52 § 42. Prior: 1947 c 203 § 4, part; 1945 c 111 §

7, part; 1943 c 118 § 4, part; 1941 c 252 § 18, part; Rem. Supp. 1947 § 8340-41, part; prior: 1925 ex.s. c 129 § 12, part.]

18.85.215 Inactive licenses. (1) Any license issued under this chapter and not otherwise revoked shall be deemed "inactive" at any time it is delivered to the director. Until reissued under this chapter, the holder of an inactive license shall be deemed to be unlicensed.

(2) An inactive license may be renewed on the same terms and conditions as an active license, and failure to renew shall result in cancellation in the same manner as an active license. An inactive license may be placed in an active status upon completion of an application as provided by the director and upon compliance with this chapter and the rules adopted pursuant thereto.

(3) The provisions of this chapter relating to the denial, suspension, and revocation of a license shall be applicable to an inactive license as well as an active license, except that when proceedings to suspend or revoke an inactive license have been initiated, the license shall remain inactive until the proceedings have been completed. [1977 1st ex.s. c 370 § 8.]

18.85.230 Refusal, revocation, suspension of licenses—Grounds (as amended by 1977 1st ex.s. c 204). The director may, upon his own motion, and shall upon verified complaint in writing by any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate broker, associate real estate broker, or real estate salesman, regardless of whether the transaction was for his own account or in his capacity as broker, and may temporarily suspend or permanently revoke or deny the license of any holder who is guilty of:

(1) Obtaining a license by means of fraud, misrepresentation, concealment, or through the mistake or inadvertence of the director;

(2) Violating any of the provisions of this chapter or any lawful rules or regulations made by the director pursuant thereto;

(3) Being convicted in a court of competent jurisdiction of this or any other state, or federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or any similar offense or offenses: *Provided*, That for the purposes of this section being convicted shall include all instances in which a plea of guilty or nolo contendere is the basis for the conviction, and all proceedings in which the sentence has been deferred or suspended;

(4) Making, printing, publishing, distributing, or causing, authorizing, or knowingly permitting the making, printing, publication or distribution of false statements, descriptions or promises of such character as to reasonably induce any person to act thereon, if the statements, descriptions or promises purport to be made or to be performed by either the licensee or his principal and the licensee then knew or, by the exercise of reasonable care and inquiry, could have known, of the falsity of the statements, descriptions or promises;

(5) Knowingly committing, or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme or device whereby any other person lawfully relies upon the word, representation or conduct of the licensee;

(6) Accepting the services of, or continuing in a representative capacity, any salesman who has not been granted a license, or after his license has been revoked or during a suspension thereof;

(7) Conversion of any money, contract, deed, note, mortgage, or abstract or other evidence of title, to his own use or to the use of his principal or of any other person, when delivered to him in trust or on condition, in violation of the trust or before the happening of the condition; and failure to return any money or contract, deed, note, mortgage, abstract or other evidence of title within thirty days after the owner thereof is entitled thereto, and makes demand therefor, shall be prima facie evidence of such conversion;

(8) Failing, upon demand, to disclose any information within his knowledge to, or to produce any document, book or record in his possession for inspection of the director or his authorized representatives acting by authority of law;

(9) Continuing to sell any real estate, or operating according to a plan of selling, whereby the interests of the public are endangered, after the director has, by order in writing, stated objections thereto;

(10) Committing any act of fraudulent or dishonest dealing or a crime involving moral turpitude, and a certified copy of the final holding of any court of competent jurisdiction in such matter shall be conclusive evidence in any hearing under this chapter;

(11) Advertising in any manner without affixing the broker's name as licensed, and in the case of a salesman or associate broker, without affixing the name of the broker as licensed for whom or under whom the salesman or associate broker operates, to the advertisement;

(12) Accepting other than cash or its equivalent as earnest money unless that fact is communicated to the owner prior to his acceptance of the offer to purchase, and such fact is shown in the earnest money receipt;

(13) Charging or accepting compensation from more than one party in any one transaction without first making full disclosure of all the facts to all the parties interested in the transaction;

(14) Accepting, taking or charging any undisclosed commission, rebate or direct profit on expenditures made for the principal;

(15) Accepting employment or compensation for appraisal of real property contingent upon reporting a predetermined value;

(16) Issuing an appraisal report on any real property in which the broker or salesman has an interest unless his interest is clearly stated in the appraisal report;

(17) Misrepresentation of his membership in any state or national real estate association;

(18) Discrimination against any person in hiring or in sales activity, on the basis of race, color, creed or national origin, or violating any of the provisions of any state or federal antidiscrimination law;

(19) Failing to keep an escrow or trustee account of funds deposited with him relating to a real estate transaction, for a period of three years, showing to whom paid, and such other pertinent information as the director may require, such records to be available to the director, or his representatives, on demand, or upon written notice given to the bank;

(20) Failing to preserve for three years following its consummation records relating to any real estate transaction;

(21) Failing to furnish a copy of any listing, sale, lease or other contract relevant to a real estate transaction to all signatories thereof at the time of execution;

(22) Acceptance by a salesman, associate broker or branch manager of a commission or any valuable consideration for the performance of any acts specified in *this 1972 amendatory act, from any person, except the licensed real estate broker with whom he is licensed;

(23) To direct any transaction involving his principal, to any lending institution for financing or to any escrow company, in expectation of receiving a kickback or rebate therefrom, without first disclosing such expectation to his principal;

(24) Failing to disclose to an owner his intention or true position if he directly or indirectly through third party, purchases for himself or acquires or intends to acquire any interest in, or any option to purchase, property;

(25) In the case of a broker licensee, failing to exercise adequate supervision over the activities of his licensed associate brokers and salesmen within the scope of *this 1972 amendatory act;

(26) Any conduct in a real estate transaction which demonstrates bad faith, dishonesty, untrustworthiness or incompetency;

(27) Acting as a mobile home and travel trailer dealer or salesman, as defined in RCW 46.70.011 as now or hereafter amended, without having a license to do so; or

(28) Failing to assure that the title is transferred under chapter 46.12 RCW when engaging in a transaction involving a mobile home as a broker or salesman. [1977 1st ex.s. c 204 § 1; 1972 ex.s. c 139 § 19; 1967 c 22 § 3; 1953 c 235 § 12; 1951 c 222 § 16; 1947 c 203 § 5; 1945 c 111 § 8; 1943 c 118 § 5; 1941 c 252 § 19; Rem. Supp. 1947 § 8340-42. Prior: 1925 ex.s. c 129 § 13.]

18.85.230 Refusal, revocation, suspension of licenses—Grounds (as amended by 1977 1st ex.s. c 261). The director may, upon his own motion, and shall upon verified complaint in writing by any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate broker, associate real estate broker, or real estate salesman, regardless of whether the transaction was for his own account or in his capacity as broker, and may temporarily suspend or permanently revoke or deny the license of any holder who is guilty of:

(1) Obtaining a license by means of fraud, misrepresentation, concealment, or through the mistake or inadvertence of the director;

(2) Violating any of the provisions of this chapter or any lawful rules or regulations made by the director pursuant thereto;

(3) Being convicted in a court of competent jurisdiction of this or any other state, or federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or any similar offense or offenses: *Provided*, That for the purposes of this section being convicted shall include all instances in which a plea of guilty or nolo contendere is the basis for the conviction, and all proceedings in which the sentence has been deferred or suspended;

(4) Making, printing, publishing, distributing, or causing, authorizing, or knowingly permitting the making, printing, publication or distribution of false statements, descriptions or promises of such character as to reasonably induce any person to act thereon, if the statements, descriptions or promises purport to be made or to be performed by either the licensee or his principal and the licensee then knew or, by the exercise of reasonable care and inquiry, could have known, of the falsity of the statements, descriptions or promises;

(5) Knowingly committing, or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme or device whereby any other person lawfully relies upon the word, representation or conduct of the licensee;

(6) Accepting the services of, or continuing in a representative capacity, any salesman who has not been granted a license, or after his license has been revoked or during a suspension thereof;

(7) Conversion of any money, contract, deed, note, mortgage, or abstract or other evidence of title, to his own use or to the use of his principal or of any other person, when delivered to him in trust or on condition, in violation of the trust or before the happening of the condition; and failure to return any money or contract, deed, note, mortgage, abstract or other evidence of title within thirty days after the owner thereof is entitled thereto, and makes demand therefor, shall be prima facie evidence of such conversion;

(8) Failing, upon demand, to disclose any information within his knowledge to, or to produce any document, book or record in his possession for inspection of the director or his authorized representatives acting by authority of law;

(9) Continuing to sell any real estate, or operating according to a plan of selling, whereby the interests of the public are endangered, after the director has, by order in writing, stated objections thereto;

(10) Committing any act of fraudulent or dishonest dealing or a crime involving moral turpitude, and a certified copy of the final holding of any court of competent jurisdiction in such matter shall be conclusive evidence in any hearing under this chapter;

(11) Advertising in any manner without affixing the broker's name as licensed, and in the case of a salesman or associate broker, without affixing the name of the broker as licensed for whom or under whom the salesman or associate broker operates, to the advertisement;

(12) Accepting other than cash or its equivalent as earnest money unless that fact is communicated to the owner prior to his acceptance of the offer to purchase, and such fact is shown in the earnest money receipt;

(13) Charging or accepting compensation from more than one party in any one transaction without first making full disclosure of all the facts to all the parties interested in the transaction;

(14) Accepting, taking or charging any undisclosed commission, rebate or direct profit on expenditures made for the principal;

(15) Accepting employment or compensation for appraisal of real property contingent upon reporting a predetermined value;

(16) Issuing an appraisal report on any real property in which the broker or salesman has an interest unless his interest is clearly stated in the appraisal report;

(17) Misrepresentation of his membership in any state or national real estate association;

(18) Discrimination against any person in hiring or in sales activity, on the basis of race, color, creed or national origin, or violating any of the provisions of any state or federal antidiscrimination law;

(19) Failing to keep an escrow or trustee account of funds deposited with him relating to a real estate transaction, for a period of three years, showing to whom paid, and such other pertinent information as the director may require, such records to be available to the director, or his representatives, on demand, or upon written notice given to the bank;

(20) Failing to preserve for three years following its consummation records relating to any real estate transaction;

(21) Failing to furnish a copy of any listing, sale, lease or other contract relevant to a real estate transaction to all signatories thereof at the time of execution;

(22) Acceptance by a salesman, associate broker or branch manager of a commission or any valuable consideration for the performance of any acts specified in *this 1972 amendatory act, from any person, except the licensed real estate broker with whom he is licensed;

(23) To direct any transaction involving his principal, to any lending institution for financing or to any escrow company, in expectation of receiving a kickback or rebate therefrom, without first disclosing such expectation to his principal;

(24) Failing to disclose to an owner his intention or true position if he directly or indirectly through third party, purchases for himself or acquires or intends to acquire any interest in, or any option to purchase, property;

(25) In the case of a broker licensee, failing to exercise adequate supervision over the activities of his licensed associate brokers and salesmen within the scope of *this 1972 amendatory act;

(26) Any conduct in a real estate transaction which demonstrates bad faith, dishonesty, untrustworthiness or incompetency; or

(27) Violation of an order to cease and desist which is issued by the director under this chapter. [1977 1st ex.s. c 261 § 1; 1972 ex.s. c 139 § 19; 1967 c 22 § 3; 1953 c 235 § 12; 1951 c 222 § 16; 1947 c 203 § 5; 1945 c 111 § 8; 1943 c 118 § 5; 1941 c 252 § 19; Rem. Supp. 1947 § 8340-42. Prior: 1925 ex.s. c 129 § 13.]

***Reviser's note:** (1) "this 1972 amendatory act", see note following RCW 18.85.050.

(2) RCW 18.85.230 was amended twice during the 1977 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once during the same session, see RCW 1.12.025.

Embezzlement: Chapter 9A.56 RCW.

False advertising: Chapter 9.04 RCW.

Obstructing justice: Chapter 9A.72 RCW.

18.85.343 Violations—Cease and desist orders.

(1) The director may issue a cease and desist order to a person after notice and hearing and upon a determination that the person has violated a provision of this chapter or a lawful order or rule of the director.

(2) If the director makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, he may issue a temporary cease and desist order. Before issuing the temporary cease and desist order, whenever possible the director shall give notice by telephone or otherwise of the proposal to issue a temporary cease and desist order to the person. Every temporary cease and desist order shall include a provision that a hearing will be held upon request to determine whether or not the order will become permanent.

At the time the temporary cease and desist order is served, the licensee shall be notified that he is entitled to request a hearing for the sole purpose of determining whether or not the public interest imperatively requires that the temporary cease and desist order be continued or modified pending the outcome of the hearing to determine whether or not the order will become permanent. The hearing shall be held within thirty days after the department receives the request for hearing, unless the licensee requests a later hearing. A licensee may secure review of any decision rendered at a temporary cease and desist order review hearing in the same manner as a contested case. [1977 1st ex.s. c 261 § 2.]

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

18.85.450 Land development representative—Issuance of registration—Minimum applicant requirements. The director shall issue a land development representative registration for any applicant, upon application made by the employing real estate broker, on a form provided by the department. The minimum requirements for an individual to be registered as a land development representative are that the applicant shall:

- (1) Be eighteen years of age or older;
- (2) Be a resident of the state of Washington; and
- (3) Furnish such proof as the director may require concerning the applicant's honesty, good reputation, and identification including finger prints. [1977 1st ex.s. c 24 § 6.]

18.85.460 Land development representative—Registration issued to employing broker—Display—Fee—Transferability—Period of validity. The registration for a land development representative shall be issued to and retained by the employing broker and shall be displayed as set forth in this chapter for licenses. A fee of fifteen dollars shall accompany each application for registration. Each registration shall be valid for a period of one year from date of issue or until employment with the broker is terminated, whichever occurs first. No registration may be transferred to another broker, nor may a representative be registered to more than one broker at a time. Upon the termination of employment of any representative the broker shall release and return the registration of that representative to the department. [1977 1st ex.s. c 24 § 7.]

18.85.470 Land development representative—Authorized activities—"Land development" defined.

(1) The activity of a land development representative registered with a broker under this chapter shall be restricted to land developments as defined in this section and limited to:

- (a) Disseminating information;
 - (b) Contacting prospective purchasers; and
 - (c) Transporting prospective purchasers to the land development site.
- (2) This section shall not be construed to authorize any representative to:
- (a) Engage in the selling of real estate;
 - (b) Negotiate for or bind the broker in any agreement relating to the sale of real estate;
 - (c) Receive or handle funds;
 - (d) Assist in preparation of documentation attendant upon sale of real estate; or
 - (e) Engage in any other conduct or activity specified in any of the definitions under RCW 18.85.010, except as provided by subsection (1) of this section.

(3) The words "land development" as used in this chapter mean land which is divided, for the purpose of disposition, into ten or more parcels on which no residential structure exists at the time it is offered for sale. [1977 1st ex.s. c 24 § 8.]

18.85.480 Land development representative—Responsibility of employing broker—Violations. Full

responsibility for the activities of the land development representative registered under this chapter shall rest with the employing broker. The director may deny, suspend, or revoke the registration of any representative or the license of the employing broker for any violation of this chapter by the representative. [1977 1st ex.s. c 24 § 9.]

Chapter 18.88 REGISTERED NURSES

Sections

18.88.080 Powers of board—Compensation of members.

18.88.080 Powers of board—Compensation of members. The board may adopt such rules and regulations not inconsistent with the law, as may be necessary to enable it to carry into effect the provisions of this chapter. The board shall approve curricula and shall establish criteria for minimum standards for schools preparing persons for licensure under this chapter. It shall keep a record of all its proceedings and make such reports to the governor as may be required. The board shall define by regulation what constitutes specialized and advanced levels of nursing practice as recognized by the medical and nursing professions. The board may adopt regulations in response to questions put to it by professional health associations, nursing practitioners and consumers in this state concerning the authority of various categories of nursing practitioners to perform particular acts.

The board shall approve such schools of nursing as meet the requirements of this chapter and the board, and the board shall approve establishment of basic nursing education programs and shall establish criteria as to the need for and the size of a program and the type of program and the geographical location. The board shall establish criteria for proof of reasonable currency of knowledge and skill as a basis for safe practice after three years nonpracticing status. The board shall establish criteria for licensure by endorsement. The board shall examine all applications for registration under this chapter, and shall certify to the director for licensing duly qualified applicants.

The department shall furnish to the board such secretarial, clerical and other assistance as may be necessary to effectively administer the provisions of this chapter. Each member of the board shall, in addition to travel expenses in accordance with RCW 43.03.050 and 43.03-.060 as now existing or hereafter amended while away from home, receive twenty-five dollars compensation for each and every day engaged in the discharge of his or her duties. [1977 c 75 § 12; 1975-'76 2nd ex.s. c 34 § 50; 1973 c 133 § 7; 1961 c 288 § 4; 1949 c 202 § 8; Rem. Supp. 1949 § 10173-7. Prior: 1933 c 180 § 1; 1923 c 150 § 1; 1913 c 81 § 1; 1909 c 41 § 3.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Severability—1973 c 133: See note following RCW 18.88.010.

**Chapter 18.106
PLUMBERS**

Sections

18.106.010	Definitions.
18.106.020	Certificate of competency—Required.
18.106.030	Application for certificate of competency—Evidence of competency required.
18.106.040	Examinations—Eligibility requirements—Determination.
18.106.050	Examinations—Scope—Fee—Results—Retaking.
18.106.060	Examinations—Local agencies—Uniformity—Fees.
18.106.070	Certificates of competency—Issuance—Duration—Renewal—Fee—Rights of holder.
18.106.090	Temporary permits.
18.106.100	Revocation of certificate of competency—Grounds—Procedure.
18.106.155	Reciprocity.
18.106.160	Penalty.

18.106.010 Definitions. Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meaning:

(1) "Advisory board" means the state advisory board of plumbers;

(2) "Department" means the department of labor and industries;

(3) "Director" means the director of department of labor and industries;

(4) "Journeyman plumber" means any person who has been issued a certificate of competency by the department of labor and industries as provided in this chapter;

(5) "Specialty plumber" means anyone who has been issued a specialty certificate of competency limited to installation, maintenance, and repair of the plumbing of single family dwellings, duplexes, and apartment buildings which do not exceed three stories;

(6) "Plumbing" means that craft involved in installing, altering, repairing and renovating potable water systems and liquid waste systems within a building: *Provided*, That installation in a water system of water softening or water treatment equipment shall not be within the meaning of plumbing as used in this chapter;

(7) "Local enforcement agency" shall mean any local governmental agency involved in the enforcement of plumbing codes and the issuance and enforcement of journeyman plumbers' licenses licensing. [1977 1st ex.s. c 149 § 1; 1975 1st ex.s. c 71 § 1; 1973 1st ex.s. c 175 § 1.]

18.106.020 Certificate of competency—Required. No person shall engage in the trade of plumbing as a journeyman or as a specialty plumber without having a current certificate of competency issued by the department in accordance with the provisions of this chapter. [1977 1st ex.s. c 149 § 2; 1975 1st ex.s. c 71 § 2; 1973 1st ex.s. c 175 § 2.]

18.106.030 Application for certificate of competency—Evidence of competency required. Any person

desiring to be issued a certificate of competency as provided in this chapter shall deliver evidence in a form prescribed by the department affirming that said person has had sufficient experience in as well as demonstrated general competency in the trade of plumbing or specialty plumbing so as to qualify him to make an application for a certificate of competency as a journeyman plumber or specialty plumber: *Provided*, That completion of a course of study in the plumbing trade in the armed services of the United States or at a school accredited by the coordinating council on occupational education shall constitute sufficient evidence of experience and competency to enable such person to make application for a certificate of competency.

In addition to supplying the evidence as prescribed in this section, each applicant for a certificate of competency shall submit an application for such certificate on such form and in such manner as shall be prescribed by the director of the department. [1977 1st ex.s. c 149 § 3; 1973 1st ex.s. c 175 § 3.]

18.106.040 Examinations—Eligibility requirements—Determination. Upon receipt of the application and evidence set forth in RCW 18.106.030, the director shall review the same and make a determination as to whether the applicant is eligible to take an examination for the certificate of competency. To be eligible to take the examination each applicant for a journeyman plumber's certificate of competency shall furnish written evidence that he has either completed a course of study in the plumbing trade in the armed services of the United States or at a school accredited by the coordinating council on occupational education; or that he has four or more years of experience under the direct supervision of a licensed journeyman plumber. Each applicant for a specialty plumber's certificate of competency shall furnish written evidence that he has either completed a course of study in the plumbing trade in the armed services of the United States or at a school accredited by the commission for vocational education or its designee, or that he has had at least three years practical experience in his specialty. No other requirement for eligibility may be imposed. The director shall establish reasonable rules and regulations for the examinations to be given applicants for certificates of competency. In establishing said rules, regulations, and criteria, the director shall consult with the state advisory board of plumbers as established in RCW 18.106.110. Upon determination that the applicant is eligible to take the examination, the director shall so notify him, indicating the time and place for taking the same. [1977 1st ex.s. c 149 § 4; 1975 1st ex.s. c 71 § 3; 1973 1st ex.s. c 175 § 4.]

18.106.050 Examinations—Scope—Fee—Results—Retaking. The department, in coordination with the advisory board, shall prepare a written examination to be administered to applicants for certificates of competency for journeyman plumber and specialty plumber. The examination shall be so constructed to determine:

(1) Whether the applicant possesses varied general knowledge of the technical information and practical

procedures that is identified with the status of journeyman plumber or specialty plumber; and

(2) Whether the applicant is sufficiently familiar with the applicable plumbing codes and the administrative rules and regulations of the department pertaining to plumbing and plumbers.

The department shall administer the examination to persons eligible to take the same under the provisions of RCW 18.106.040. All applicants shall, before taking such examination, pay to the department a twenty-five dollar fee: *Provided*, That any applicant taking said examination shall pay only such additional fee as is necessary to cover the costs of administering such additional examination as determined by the advisory board.

The department shall certify the results of said examination, and shall notify the applicant whether he has passed or failed. Any applicant who has failed the examination may petition the department to retake the examination, upon such terms and after such period of time as the director, in cooperation with the advisory board, shall deem necessary and proper. [1977 1st ex.s. c 149 § 5; 1973 1st ex.s. c 175 § 5.]

18.106.060 Examinations—Local agencies—Uniformity—Fees. Any local enforcement agency certified by the state shall hold written examinations for licensing journeyman plumbers or specialty plumbers and shall retain fifty percent of the fees collected for the administration of such examinations. All such examinations given shall be developed by the state agency and shall be uniform throughout the state. The initial issuance of licenses and renewals shall be made by any certified local enforcement agency or the state, and fifty percent of such fees shall be retained by the certified local issuing agency. [1977 1st ex.s. c 149 § 6; 1973 1st ex.s. c 175 § 6.]

18.106.070 Certificates of competency—Issuance—Duration—Renewal—Fee—Rights of holder. The department shall issue a certificate of competency to all applicants who have passed the examination provided in RCW 18.106.050 and 18.106.060 as now or hereafter amended, and who have otherwise complied with the provisions of this chapter and the rules and regulations promulgated thereto. The certificate shall bear the date of issuance, and shall expire on the first of July immediately following the date of issuance. The certificate shall be renewable annually, upon application, on or before the first of July. An annual renewal fee of twenty-five dollars shall be assessed for each certificate.

The certificates of competency or permits provided for in this chapter shall grant the holder the right to engage in the work of plumbing as a journeyman plumber or specialty plumber in accordance with its provisions throughout the state and within any of its political subdivisions on any job or any employment without additional proof of competency or any other license or permit or fee to engage in such work: *Provided, however*, That this shall not preclude employees from adhering to a union security clause in any employment where such a

requirement exists. [1977 1st ex.s. c 149 § 7; 1973 1st ex.s. c 175 § 7.]

18.106.090 Temporary permits. The department is authorized to grant and issue temporary permits in lieu of certificates of competency whenever a plumber coming into the state of Washington from another state requests the department for a temporary permit to engage in the trade of plumbing as a journeyman plumber or as a specialty plumber during the period of time between filing of an application for a certificate as provided in RCW 18.106.030 as now or hereafter amended and taking the examination provided for in RCW 18.106.050 and 18.106.060 as now or hereafter amended: *Provided*, That no temporary permit shall be issued to:

(1) Any person who has failed to pass the examination for a certificate of competency;

(2) Any applicant under this section who has not furnished the department with such evidence required under RCW 18.106.030;

(3) To any apprentice plumber. [1977 1st ex.s. c 149 § 8; 1973 1st ex.s. c 175 § 9.]

18.106.100 Revocation of certificate of competency—Grounds—Procedure. (1) The department may revoke any certificate of competency upon the following grounds:

(a) The certificate was obtained through error or fraud;

(b) The holder thereof is judged to be incompetent to carry on the trade of plumbing as a journeyman plumber or specialty plumber;

(c) The holder thereof has violated any of the provisions of this chapter or any rule or regulation promulgated thereto.

(2) Before any certificate of competency shall be revoked, the holder thereof shall be given written notice of the department's intention to do so, mailed by registered mail, return receipt requested, to said holder's last known address. Said notice shall enumerate the allegations against such holder, and shall give him the opportunity to request a hearing before the advisory board. At such hearing, the department and the holder shall have opportunity to produce witnesses and give testimony. The hearing shall be conducted in accordance with the provisions of chapter 34.04 RCW. The board shall render its decision based upon the testimony and evidence presented, and shall notify the parties immediately upon reaching its decision. A majority of the board shall be necessary to render a decision. [1977 1st ex.s. c 149 § 9; 1973 1st ex.s. c 175 § 10.]

18.106.155 Reciprocity. The director may, upon payment of the appropriate fees, grant a certificate of competency without examination to any applicant who is a registered journeyman plumber or specialty plumber in any other state whose requirements for registration are at least substantially equivalent to the requirements of this state, and which extends the same privileges of reciprocity to journeymen plumbers or specialty plumbers registered in this state. [1977 1st ex.s. c 149 § 11.]

18.106.160 Penalty. The attorney general or the appropriate county prosecutor may bring a civil action in the superior court to enforce the provisions of this chapter and the rules and regulations promulgated thereunder and may recover as damages on behalf of the state of Washington a civil penalty of one hundred dollars per day of each violation, not to exceed the sum of five hundred dollars per violation. [1977 1st ex.s. c 149 § 10; 1973 1st ex.s. c 175 § 16.]

Title 19 BUSINESS REGULATIONS— MISCELLANEOUS

Chapters

19.02	Business regulation and licensing system.
19.09	Charitable solicitations.
19.16	Collection agencies.
19.24	Copyright protection.
19.27	State building code.
19.28	Electricians and electrical installations.
19.31	Employment agencies.
19.44	Grist mills.
19.86	Unfair business practices—Consumer protection.
19.94	Weights and measures—1969 act.
19.106	Financial institutions disclosure act.

Chapter 19.02 BUSINESS REGULATION AND LICENSING SYSTEM

Sections

19.02.010	Purpose—Intent.
19.02.020	Definitions.
19.02.030	Business registration and licensing system—Created—Duties—Plan—Rules.
19.02.040	Board of review.
19.02.050	Participation of state agencies.
19.02.060	Continuation of pilot program for grocery stores under chapter 43.31 RCW.
19.02.070	Authority for issuance of licenses.
19.02.900	Severability—1977 1st ex.s. c 319.
19.02.910	Effective date—1977 1st ex.s. c 319.

Reviser's note: Throughout chapter 19.02 RCW, the term "this 1977 amendatory act" has been changed to "this chapter" This 1977 amendatory act [1977 1st ex.s. c 319] consists of this chapter, the 1977 amendment to RCW 82.24.220, and to the repeal of RCW 14.04.260, 14.04.270, 15.14.090, 16.44.100, 16.72.050, 18.04.210, 18.04.230, 46.08.060, 67.08.020, 67.08.025, 70.72.010–70.72.090, 75.28.310, and 78.40.100–78.40.145.

Business coordination act: RCW 43.31.870–43.31.910.

19.02.010 Purpose—Intent. Experience under the pilot program of the business coordination act suggests that the number of state licenses and permits required for new businesses and the renewal of existing licenses places an undue burden on business. Studies under this act also show that the state can reduce its costs by coordinating application forms, information, and licenses. Therefore, the legislature extends the business coordination act by establishing a business registration and

license program to develop and implement the following goals and objectives:

(1) The first goal of this system is to provide a convenient, accessible, and timely system for the business community to acquire and maintain the necessary state registrations and licenses to conduct business, which system shall be developed and operated in the most cost-efficient manner for the business community and state. The objectives of this goal are:

(a) To provide a service whereby information is available to the business community concerning all state registration and licensing requirements;

(b) To establish a system which will enable state agencies to efficiently store, retrieve, and exchange registration and license information with due regard to privacy statutes; to issue and renew master licenses where such licenses are appropriate; and to provide appropriate support services for this objective;

(c) To seek to provide at designated locations one consolidated application form to be completed by any given applicant; and

(d) To establish a state-wide system of common business identification.

(2) The second goal of this system is to reduce the total number of licenses required to conduct business in this state.

It is the intent of the legislature that the authority for determining if a requested license shall be issued shall remain with the agency legally authorized to issue the license or permit.

It is the further intent of the legislature that those licenses and permits which no longer serve a useful purpose in regulating certain business activities should be eliminated. [1977 1st ex.s. c 319 § 1.]

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

19.02.020 Definitions. As used in this chapter, the following words shall have the following meanings:

(1) "System" means the business registration and licensing center established by this chapter and located in and under the administrative control of the department of motor vehicles;

(2) "Board of review" means the body established to review policies and rules adopted by the department of motor vehicles for carrying out the provisions of this chapter;

(3) "Master license" means the document designed for public display issued by the system which certifies individual state agency approval for licenses the state requires for any person subject to the provisions of this chapter;

(4) "License" means the whole or part of any agency permit, license, certificate, approval, registration, charter, or any form or permission required by law, including agency rule, to engage in any activity; and

(5) "Person" means any individual, sole proprietorship, partnership, association, cooperative, corporation, nonprofit organization, state or local government agency, and any other organization required to register with the state to do business in the state and to obtain

one or more licenses from the state or any of its agencies. [1977 1st ex.s. c 319 § 2.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

19.02.030 Business registration and licensing system—Created—Duties—Plan—Rules. (1)

There is created within the department of motor vehicles a business registration and licensing system.

(2) The duties of the system shall be:

(a) To establish a service before January 1, 1978, that will provide information to persons detailing all state licenses required to engage in business in this state and the locations for applying for those licenses;

(b) To develop before April 1, 1978, a common system of identifying businesses by all state agencies;

(c) To recommend to the legislature on January 1, 1978, criteria for evaluation of existing and proposed forms of licensing authorization; and

(d) To develop a computerized system before April 1, 1980, capable of storing, retrieving, and exchanging license information as well as issuing and renewing master licenses in an efficient manner.

(3) Every state agency shall review its licenses and recommend to the legislature on January 1, 1979, those licenses that should be eliminated or consolidated and justify those that should be retained.

(4) The plan for developing the system shall include a phased approach that:

(a) Will have completed before January 1, 1978, a requirements analysis and specification document including overview systems design;

(b) Will have completed before April 1, 1978, a detailed requirements analysis including general systems design;

(c) Will have established before April 1, 1978, interagency procedures for effectuating the system;

(d) Will have selected before April 1, 1978, those licenses which will be included in the initial implementation of the system and the date and manner the licenses will be integrated into the system;

(e) Will have completed before July 1, 1978, a cost benefit analysis of the final implementation of this chapter; and

(f) Will have concluded before October 1, 1979, trial applications and a test of the system.

(5) The department of motor vehicles shall establish the position of assistant director of the business registrations and licenses system who will also act as executive secretary to the board of review.

(6) The director of motor vehicles may adopt under chapter 34.04 RCW such rules as may be necessary to effectuate the purposes of this chapter. [1977 1st ex.s. c 319 § 3.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

19.02.040 Board of review. (1) There is hereby created a board of review to provide policy direction to the

department of motor vehicles as it establishes and operates the business registration and licensing system. The board of review shall include the following officials:

(a) Director, department of revenue;

(b) Director, department of labor and industries;

(c) Commissioner, department of employment security;

(d) Director, department of agriculture;

(e) Director, department of commerce and economic development;

(f) Director, department of motor vehicles;

(g) Director, office of program planning and fiscal management;

(h) Chairman, liquor board;

(i) Secretary, department of social and health services; and

(j) As ex officio members:

(i) The president of the senate or the president's designee; and

(ii) The speaker of the house or the speaker's designee.

(2) The governor shall appoint a chairperson from among the members of the board.

(3) The board shall meet at the call of the chairperson at least once each quarter to:

(a) Establish interagency policy guidelines for the system;

(b) Review the findings, status, and problems of system operations and recommend courses of action;

(c) Receive reports from industry and agency task forces; and

(d) Recommend to the system in questionable cases whether a specific license comes within the scope of this chapter. [1977 1st ex.s. c 319 § 4.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020; "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

19.02.050 Participation of state agencies. (1) The legislature hereby directs the full participation by the following agencies in the implementation of this chapter:

(a) Department of agriculture;

(b) Secretary of state;

(c) Department of social and health services;

(d) Department of revenue;

(e) Department of fisheries;

(f) Department of employment security;

(g) Department of labor and industries;

(h) Department of commerce and economic development;

(i) Liquor control board;

(j) Board of pharmacy;

(k) Department of motor vehicles;

(l) Utilities and transportation commission; and

(m) Other agencies as determined by the governor. [1977 1st ex.s. c 319 § 5.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

19.02.060 Continuation of pilot program for grocery stores under chapter 43.31 RCW. The department of commerce and economic development shall have the responsibility to continue the pilot program established under chapter 43.31 RCW for grocery stores until all licenses under that program are phased into the business registration and licensing system. [1977 1st ex.s. c 319 § 6.]

Pilot program for grocery stores under business coordination act: RCW 43.31.870–43.31.910.

19.02.070 Authority for issuance of licenses. Irrespective of any authority delegated to the department of motor vehicles to implement the provisions of this chapter, the authority for determining if any requested license shall be issued shall remain with the agency otherwise legally authorized to issue the license. [1977 1st ex.s. c 319 § 7.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

19.02.900 Severability—1977 1st ex.s. c 319. If any provision of this 1977 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. [1977 1st ex.s. c 319 § 10.]

19.02.910 Effective date—1977 1st ex.s. c 319. This 1977 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, 1977. [1977 1st ex.s. c 319 § 11.]

Chapter 19.09

CHARITABLE SOLICITATIONS

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19.09.260	Investigations—Powers and duties of director.
19.09.265	Investigations, proceedings or hearings—Oaths and affirmations—Subpoena powers—Contempt—Venue.
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19.09.285	Administrative procedure act to govern proceedings.
19.09.330	Repealed.

19.09.370 Radio, television stations, newspapers exempt—Exception.

19.09.020 Definitions. When used in this chapter, unless the context otherwise requires:

(1) A "bona fide officer or employee" of a charitable organization is one whose conduct is subject to direct control by such organization and who does not act in the manner of an independent contractor in his relation with the organization.

(2) "Charitable organization" means: (a) Any benevolent, philanthropic, patriotic, eleemosynary, education, social, recreation, fraternal organization, or any other person having or purporting to have a charitable nature; and (b) which solicits or solicits and collects contributions for any charitable purpose. "Charitable" shall have its common law meaning unless the context in which it is used clearly requires a narrower or a broader meaning.

(3) "Contribution" means the donation, promise or grant, for consideration or otherwise, of any money or property of any kind or value which contribution is wholly or partly induced by a solicitation. Reference to dollar amounts of "contributions" or "solicitations" in this chapter means in the case of payments or promises to pay for merchandise or rights of any description, the value of the total amount paid or promised to be paid for such merchandise or rights less the reasonable purchase price to the charitable organization of any such tangible merchandise, rights, or services resold by the organization, and not merely that portion of the purchase price to be applied to a charitable purpose.

(4) "Compensation" means salaries, wages, fees, commissions, or any other remuneration or valuable consideration.

(5) "Cost of solicitation" means and includes all costs, expenditures, debts, obligations, salaries, wages, commissions, fees, or other money or thing of value paid or incurred in making a solicitation for a direct gift or conducting a sale or benefit affair; cost of solicitation shall not include the reasonable purchase price to the charitable organization of any tangible goods or services resold by the organization as a part of its fund raising activities.

(6) "Director" means the director of the department of motor vehicles.

(7) "Direct gift" shall mean and include an outright contribution of food, clothing, money, credit, property, financial assistance or other thing of value to be used for a charitable or religious purpose and for which the donor receives no consideration or thing of value in return.

(8) "Membership" means that for the payment of fees, dues, assessments, etc., an organization provides services and confers a bona fide right, privilege, professional standing, honor, or other direct benefit, in addition to the right to vote, elect officers, or hold office. The term "membership" shall not include those persons who are granted a membership upon making a contribution as the result of solicitation.

(9) "Parent organization" means that part of a charitable organization which coordinates, supervises, or exercises control over policy, fund raising, or expenditures, or assists or advises one or more chapters,

branches, or affiliates of such organization in the state of Washington.

(10) "Person" means an individual, organization, group, association, partnership, corporation, or any combination thereof.

(11) "Professional fund raiser" means any person who, for compensation or other consideration, plans, conducts, manages, or advises concerning any drive or campaign in this state for the purpose of soliciting contributions for or on behalf of any charitable organization or charitable purpose, or who engages in the business of or holds himself out to persons in this state as independently engaged in the business of soliciting contributions for such purposes, or the business of planning, conducting, managing, or carrying on any drive or campaign in this state for such solicitations: *Provided*, That the following persons shall not be deemed professional fund raisers: (a) Any bona fide officer or employee of a charitable organization which maintains a permanent establishment in the state of Washington; whose salary or other compensation is not computed on funds raised or to be raised; (b) a clergyman of a religious corporation exempt under the provisions of RCW 19.09.030.

(12) A "professional solicitor" means any person other than a professional fund raiser who is employed or retained for compensation by any person or charitable organization to solicit contributions for charitable purposes from persons in this state, but shall not include any bona fide officer or employee of a registered charitable organization.

(13) "Sale and benefit affair" shall mean and include, but not be limited to, athletic or sports event, bazaar, benefit, campaign, circus, contest, dance, drive, entertainment, exhibition, exposition, party, performance, picnic, sale, social gathering, theater, or variety show which the public is requested to patronize or attend or to which the public is requested to make a contribution for any charitable or religious purpose connected therewith: *Provided*, That bingo activities, raffles, and amusement games conducted pursuant to the provisions of chapter 9.46 RCW and applicable rules of the Washington state gambling commission are specifically excluded and shall not be deemed a solicitation within the provisions of this chapter.

(14) "Solicitation" means any oral or written request for a contribution, including the solicitor's offer or attempt to sell any property, rights, services, or other thing in connection with which:

- (a) Any appeal is made for any charitable purpose; or
- (b) The name of any charitable organization is used as an inducement for consummating the sale; or
- (c) Any statement is made which implies that the whole or any part of the proceeds from the sale will be applied toward any charitable purpose or donated to any charitable organization.

The solicitation shall be deemed completed when made, whether or not the person making it receives any contribution or makes any sale. [1977 1st ex.s. c 222 § 1; 1974 ex.s. c 106 § 1; 1973 1st ex.s. c 13 § 2.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

19.09.030 Exemptions. Except as otherwise specifically provided in other sections of this chapter, this chapter shall not apply to the following:

(1) Solicitations by religious corporations duly organized and operated in good faith as religious organizations which are entitled to receive a declaration of current tax exempt status from the government of the United States and their duly organized branches or chapters, if the solicitations by such organization are conducted among the members thereof by other members or officers thereof, voluntarily or if the solicitations are in the form of collections or contributions at the regular or special religious assemblies, meetings, or services of any such organization or if the solicitations by such organization are for evangelical, missionary, or religious purposes.

(2) Any charitable organizations when the solicitation of contributions is confined to the membership of the organization and when the solicitation is managed and conducted solely by officers and members of such organizations who are unpaid for such services.

(3) Persons requesting any contributions for the relief of named individuals:

(a) When the solicitation is managed and conducted solely by persons who are unpaid for such services and;

(b) When the contributions collected do not exceed the ten thousand dollars in any twelve month period; and

(c) When all of the contributions collected, without any deductions whatsoever except for the actual cost of a banquet, dance, or similar social gathering, are turned over to the named beneficiary or beneficiaries.

(4) Charitable organizations which do not intend to solicit and receive, and do not actually raise or receive, contributions from the public in excess of ten thousand dollars during a calendar year, if all their functions, including all fund raising activities, are carried on by persons who are unpaid for their services and if no part of their assets or income inures to the benefit of or is paid to any officer or member.

(5) Charitable organizations which do not intend to solicit and receive, and do not actually raise or receive, contributions from more than ten persons during a calendar year, if all their functions, including all fund raising activities, are carried on by persons who are unpaid for their services and if no part of their assets or income inures to the benefit of or is paid to any officer or member.

(6) Solicitations by government subdivisions which solicit funds for governmental purposes, if such funds are subject to control, examination, or review by governmental agents or agencies.

(7) Solicitations by volunteer hospital organizations affiliated with nonprofit hospitals whose budgets are subject to review by the Washington state hospital commission according to chapter 70.39 RCW when: Net proceeds of such solicitations are used solely to improve or maintain tax exempt health care services or facilities of such institutions; the solicitation is carried on solely by persons who are unpaid for their services and no part of the volunteer organizations' assets or income inures to the benefit of, or is paid to any officer or member; and no professional fund raiser or solicitor is employed or

retained for compensation in connection with such solicitations. [1977 1st ex.s. c 222 § 2; 1974 ex.s. c 106 § 2; 1973 1st ex.s. c 13 § 3.]

19.09.070 Application for registration—Filing—Contents—Requirements. An application for registration of a charitable organization, as provided by RCW 19.09.060, shall be filed as prescribed by rules and regulations which the director may adopt and shall contain the following documents and information:

(1) The name of the charitable organization and the name under which it intends to solicit contributions;

(2) The addresses of all offices, if any, maintained by the charitable organization in the state of Washington and the names and addresses of its chapters, branches, and affiliates in this state;

(3) The names and addresses of its directors, trustees, and other officers and key personnel. The term "key personnel" means: (a) Any officers, employees, or other personnel who are directly in charge of any of the fund-raising activities of the charitable organization; and (b) the officers or individuals maintaining custody of the organization's financial records and the officers or individuals who will have custody of the contributions;

(4) The location of the organization's financial records in the state of Washington;

(5) Methods by which solicitation will be made, including a statement as to whether such solicitation is to be conducted by voluntary unpaid solicitors, by paid solicitors, or both, and a narrative description of the promotional plan together with copies of all advertising material which has been prepared for public distribution by any means of communication and any location of any telephone solicitation facilities;

(6) The names and addresses of any professional fund raisers and professional solicitors who are acting or who have agreed to act on behalf of the charitable organization together with a statement setting forth the terms of the arrangements for salaries, bonuses, commissions, or other remuneration to be paid the professional fund raisers and professional solicitors;

(7) The general purpose for which the charitable organization is organized;

(8) Where and when the organization was legally established, the form of its organization, and its federal tax exempt status;

(9) The purposes for which the contributions to be solicited will be used, the total amount of funds proposed to be raised thereby, and the use or disposition to be made of any receipts therefrom;

(10) The period of time during which the solicitation will be made and if less than state-wide, the area or areas in which such solicitation will generally take place;

(11) A financial statement of any funds collected for charitable purposes by the applicant for the last preceding fiscal year; such statement shall list the amount of money so collected together with the cost of solicitations and the final distribution of the balance;

(12) An irrevocable appointment of the director to receive service of any lawful process in any noncriminal proceeding arising under this chapter against the applicant or his personal representative;

(13) Whether the organization is authorized by any other governmental authority to solicit contributions and whether it is or has ever been enjoined by any court from soliciting contributions;

(14) Such other information as may be reasonably required, by the director, in the public interest or for the protection of contributors.

If there is any change, while any application is pending, in fact, policy, or method that would alter the information given in the application, the applicant shall notify the director in writing thereof within five days, excluding Saturdays, Sundays and legal holidays after such change. [1977 1st ex.s. c 222 § 3; 1973 1st ex.s. c 13 § 7.]

19.09.080 Registration statement—Signing—Duration—Notice of changes. The registration statement, and any other documents prescribed by the director, shall be signed under oath by the president, or other authorized officer, and the chief fiscal officer of the charitable organization. Such registration shall be effective until withdrawn by the registrant or suspended or revoked by the director. If there are any changes in fact, policy, or method that would alter the information given in the registration statement, the charitable organization shall notify the director in writing thereof within ten days, excluding Saturdays, Sundays, and legal holidays, after any such change. [1977 1st ex.s. c 222 § 4; 1973 1st ex.s. c 13 § 8.]

19.09.090 Subsidiary organizations. Where any chapter, branch, affiliate, or area division of a charitable organization is supervised and controlled by a superior or parent organization which is incorporated, qualified to do business, or doing business within this state such chapter, branch, affiliate, or area division shall not be required to register under RCW 19.09.060 if the superior or parent organization files a registration statement, on behalf of its subsidiary, in addition to or as a part of its own registration statement. Where a registration statement has been filed by a superior or parent organization, on behalf of such subsidiary organization, the superior or parent organization need not include the financial statement information as a part of its financial report for any chapter, branch, or affiliate which solicits and collects less than five hundred dollars during its fiscal year, providing all such fund raising is done by persons who are unpaid for such services. For those chapters, branches, or affiliates which solicit, collect, or expend between five hundred dollars and five thousand dollars during their fiscal year, the superior or parent organization shall report such financial information either separately or in consolidated form. For those chapters, branches, or affiliates which solicit, collect, or expend in excess of five thousand dollars during their fiscal year, the superior or parent organization shall set forth such financial information separately, in addition to including such information in consolidated form. [1977 1st ex.s. c 222 § 5; 1973 1st ex.s. c 13 § 9.]

19.09.100 Examination by director—Limitations on costs of solicitations—Other requirements. Upon

receipt of an application in the proper form for registration, the director shall immediately initiate an examination to determine that:

(1) The cost of solicitation (including payments to professional fund raisers and professional solicitors and internal fund raising and solicitation salaries and expenses) during the year immediately preceding the date of application has not exceeded, or, for the specified year in which the application is submitted, will not exceed twenty percent of the total moneys, pledges, or other property raised or received or to be raised or received by reason of any solicitation and/or fund raising activities or campaigns. The term "internal fund raising and solicitation salaries and expenses" shall include, but not be limited to, such portions of the charitable organization's salary and overhead expenses as is fairly allocable (on a time or other appropriate basis) to its solicitation and/or fund raising expense. As provided in RCW 19.09.020(5), the cost of solicitation shall not include the reasonable purchase price to the charitable organization of any tangible goods or services resold by the organization as a part of its fund-raising activities. The amount of such expenditure by the organization shall be deducted from the gross amount collected, or from the organization's support received directly from the public, prior to computing the percentage limitation. In the event special facts or circumstances are presented showing that expenses higher than twenty percent were not or will not be unreasonable, the director has the discretion to allow such higher expense and enter an order registering the charitable organization. Such an order shall be reviewed annually by the director. When such an order is entered, the cost of solicitation shall be disclosed by the organization to each person being solicited at the time of each solicitation. To further the purposes of this chapter, the director shall from time to time apprise the public of the names of those organizations for which discretionary action has been exercised in connection with the cost of solicitation limitations;

(2) The charitable organization has complied with all local governmental regulations which apply to soliciting for or on behalf of charitable organizations;

(3) The advertising material and the general promotional plan are not false, misleading, or deceptive; comply with the standards, rules, and regulations which the director may adopt; and afford full and fair disclosure;

(4) The charitable organization has not, or if a corporation, its officers, directors, and principals have not, been convicted of a crime involving solicitations for or on behalf of a charitable organization in this state, the United States, or any other state or foreign country within the past ten years and has not been subject to any permanent injunction or administrative order or judgment, under the provisions of RCW 19.86.080 or 19.86.090, involving a violation or violations of the provisions of RCW 19.86.020, within the past ten years, or of restraining a false or misleading promotional plan involving solicitations for charitable organizations. [1977 1st ex.s. c 222 § 6; 1974 ex.s. c 106 § 3; 1973 1st ex.s. c 13 § 10.]

19.09.110 Registration or rejection—Order—Procedure. (1) Within thirty days from the receipt of the application for registration, in proper form, the director shall enter an order registering the charitable organization or rejecting the registration. If no order of rejection is entered within thirty days from the receipt of the application for registration, in proper form, the charitable organization shall be deemed registered unless the applicant has consented, in writing, to a delay.

(2) If the director affirmatively determines, upon inquiry and examination that the requirements of RCW 19.09.100 have been met he shall enter an order registering the charitable organization.

(3) If the director determines, upon inquiry and examination, that any of the requirements of RCW 19.09.100 have not been met, the director shall notify the applicant that the application for registration must be corrected in the deficiencies specified. If the requested corrections are not complied with, the director shall enter an order rejecting the registration, such order shall include the findings of fact upon which the order is based. The order rejecting the registration shall not become effective for twenty days during which time the applicant may petition for reconsideration and shall be entitled to a hearing. [1977 1st ex.s. c 222 § 7; 1973 1st ex.s. c 13 § 11.]

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

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

19.09.180 Reports on charitable activities. The director shall keep the public informed on charitable activities in the state. To this end, the director shall conduct investigations and audits and issue an annual report on or about July 31st of each year setting forth information related to solicitation activities of registered charitable organizations. The director shall issue periodic reports to the public to carry out the purposes of this chapter. [1977 1st ex.s. c 222 § 8; 1973 1st ex.s. c 13 § 18.]

19.09.190 Professional fund raisers or solicitors—Registration—Duration—Surety bond. Every person employed or retained as a professional fund raiser or professional solicitor by or for a charitable organization shall file with the director a valid registration or renewal of such registration. Applications for such registration shall be in writing, under oath, and in the form prescribed by the director. The form shall require information as to the identity and previous related activities of the registrant as may be necessary or appropriate for the public interest or for the protection of contributors. A corporation, partnership, or sole proprietorship which is a professional fund raiser or professional solicitor, may register for and pay a single fee on behalf of all its members, officers, agents, servants, and employees. However, the names and addresses of all officers, agents, servants, and employees of professional fund raisers and professional solicitors must be listed in

the application. In addition, a professional fund raiser shall file, at the time of making application, with and have approved by the director a surety bond executed by the applicant as principal in the amount of five thousand dollars with one or more sureties whose liability in the aggregate as such sureties will at least equal the said sum. The bond shall run to the director for the use of the state and to any person who may have a cause of action against the obligor of said bond for any malfeasance or misfeasance in the conduct of such solicitation. The director or his designee shall examine each application, and if he finds it to be in conformity with the requirements of this chapter and all relevant rules and regulations he shall approve the registration. Any applicant who is denied registration may, within twenty days from the date of notification of such denial, request, in writing, a hearing, which hearing shall be held in accordance with the provisions of the administrative procedure act, chapter 34.04 RCW. Registration, when effected, shall be for a period of one year, or any part thereof, expiring on the last day of December and may be renewed for additional periods unless rejected for legally sufficient cause or for failure to file the bond prescribed in this section. The additional periods shall be for not more than one calendar year or such shorter period as the director may prescribe by regulation. [1977 1st ex.s. c 222 § 9; 1973 1st ex.s. c 13 § 19.]

19.09.210 Financial statements—Special reports.

(a) On or before the fifteenth day of the fifth month following the close of its fiscal year every charitable organization which is required to file a registration statement under RCW 19.09.060 and which has received contributions during the previous fiscal year shall file with the director a financial statement containing, but not limited to, the following information:

(1) The gross amount of the contributions pledged and the gross amount collected.

(2) The amount thereof, given or to be given to charitable purposes represented together with details as to the manner of distribution as may be required either by general rule or by specific written request of the director.

(3) The aggregate amount paid and to be paid for the expenses of such solicitation.

(4) The amounts paid to and to be paid to professional fund raisers and solicitors.

(5) Copies of any annual or periodic reports furnished by the charitable organization, of its activities during or for the same fiscal period, to its parent organization, subsidiaries, or affiliates, if any.

(b) The director may prescribe such forms as may be necessary or convenient for the furnishing of such information. In addition, the director may require that within thirty days after the close of any special period of solicitation the charitable organization conducting such solicitation shall file a special report containing the information specified in this section for such special period of solicitation. [1977 1st ex.s. c 222 § 10; 1975 1st ex.s. c 219 § 1; 1973 1st ex.s. c 13 § 21.]

19.09.220 Suspension of registration—Failure to file financial statement or report—Examination. (1) If it appears to the director, at any time, that any organization has failed to comply with any requirement of RCW 19.09.210 or failed to file any required report, the director following notice, and after an opportunity for a hearing (at a time fixed by the director) within twenty days after such notice, shall issue an order suspending the registration. When such requirement has been fulfilled or the information has been filed in accordance with such order, the director shall so declare and thereupon the order shall cease to be effective.

(2) The director is hereby empowered to make an examination in any case to determine whether an order should issue under subsection (1) of this section. In making such examination the director, or his designee, shall have access to, and may demand the production of any books and papers of, and may administer oaths and affirmations to, and may examine the charitable organization, any agents, or any other person, in respect to any matter relevant to the examination. If the charitable organization or any agents shall fail to cooperate or shall obstruct or refuse to permit the making of an examination such conduct shall be proper grounds for the issuance of an order suspending the registration. [1977 1st ex.s. c 222 § 11; 1973 1st ex.s. c 13 § 22.]

19.09.260 Investigations—Powers and duties of director. The director may:

(1) Make necessary public or private investigations within or without the state to determine whether any person has violated or is about to violate this chapter or any rule, regulation, or order hereunder, or to aid in the enforcement of this chapter, or in the prescribing of rules and forms hereunder; and

(2) Require or permit any person to file a statement in writing, under oath or otherwise as the director determines, as to all facts and circumstances concerning the matter to be investigated. [1977 1st ex.s. c 222 § 12; 1973 1st ex.s. c 13 § 26.]

19.09.265 Investigations, proceedings or hearings—Oaths and affirmations—Subpoena powers—Contempt—Venue. For the purpose of any investigation, proceeding, or hearing under this chapter, the director or any officer designated by rule may (1) administer oaths or affirmations and (2) upon the director's own motion, or upon request of any party to a hearing, shall subpoena witnesses, compel their attendance, require the production of any matter which is relevant to the investigation, proceeding, or hearing, and take evidence on all relevant matters, including matters reasonably calculated to lead to the discovery of material evidence. Subpoenas issued by the director or his designee shall be served in accordance with the provisions of law governing the service of subpoenas in actions in superior court. If any person refuses to obey a subpoena issued under this section, or refuses to answer any proper question put to him during a hearing or proceeding, the director or his designee may petition the superior court of any county in which such person resides or is found for an order requiring such person to

appear and give evidence, or to produce the requested material, or to answer the proposed question. Any failure to obey such order of the court may be punished by the court as a civil contempt may be punished.

Unless another place is named by the director or his designee, all hearings and proceedings shall be located in Olympia, and all subpoenaed physical evidence or exhibits, whether demanded in relation to a hearing, proceeding, or investigation, shall be produced in Olympia. [1977 1st ex.s. c 222 § 13.]

19.09.275 Violations—Penalties. Any person who wilfully and knowingly violates any provisions of *this act or who shall wilfully and knowingly give false or incorrect information to the director in filing statements or reports required by *this 1977 amendatory act, whether or not such statement or report is verified, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be sentenced for the first offense to pay a fine of not less than one hundred dollars and not more than two hundred and fifty dollars or be imprisoned in the county jail for not more than forty-five days, or both; and for the second and any subsequent offense, to pay a fine of not less than two hundred and fifty dollars and not more than five hundred dollars or be imprisoned in the county jail for not more than ninety days, or both. [1977 1st ex.s. c 222 § 14.]

***Reviser's note:** "this act" or "this 1977 amendatory act" apparently refers to 1977 1st ex.s. c 222, which consists of RCW 19.09.265, 19.09.275, 19.09.285, amendments to RCW 19.09.020, 19.09.030, 19.09.070-19.09.110, 19.09.180, 19.09.190, 19.09.210, 19.09.220, 19.09.260, 19.09.280, 19.09.370, and to the repeal of RCW 19.09.120, 19.09.130 and 19.09.330.

19.09.280 Suspension or revocation of registration—Grounds—Cease and desist order as alternative. (1) Following notice and hearing in accordance with the administrative procedure act, chapter 34.04 RCW, the director may suspend or revoke any registration made pursuant to this chapter upon a written finding of fact that the charitable organization, professional fund raiser, or professional solicitor has:

(a) Failed to comply with the terms of a cease and desist order;

(b) Been convicted in any court, subsequent to the filing of the application for registration, for a crime involving fraud, deception, false pretense, misrepresentation, false advertising, or dishonest dealing in charity solicitation;

(c) Failed to faithfully perform any stipulation or agreement made with the director as an inducement to grant any registration or to reinstate any registration or to approve any promotional plan or method of solicitation;

(d) Made intentional misrepresentations or concealed material facts in an application for registration;

(e) Violated any provision of this chapter, or any rule or regulation prescribed by the director pursuant to RCW 19.09.310.

Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(2) If the director finds, following notice and hearing, that the charitable organization, professional fund raiser or professional solicitor has been guilty of a violation for which revocation could be ordered, he may issue a cease and desist order instead.

(3) If the director finds that the public interest requires emergency action, and incorporates a finding to that effect in a written order, summary suspension of a registration may be ordered pending proceedings for revocation or other action. Such proceedings shall be promptly instituted and determined. [1977 1st ex.s. c 222 § 15; 1973 1st ex.s. c 13 § 28.]

19.09.285 Administrative procedure act to govern proceedings. Except as otherwise provided in this chapter, all proceedings under this chapter shall be in accordance with the administrative procedure act, chapter 34.04 RCW. [1977 1st ex.s. c 222 § 16.]

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

19.09.370 Radio, television stations, newspapers exempt—Exception. Nothing in this chapter shall require registration or application for registration by radio and television stations or legal newspapers, or their employees acting within the scope of their employment nor shall any such station, newspaper or employee thereof be considered a professional fund raiser, charitable organization, professional solicitor or trustee: *Provided, however,* The manager or publisher of any such station or newspaper which solicits and actually collects charitable cash contributions exceeding a total value of five hundred dollars for any single charitable purpose during any twelve month period, although exempt from the registration provisions of this chapter, shall have available for public inspection a report; the form of the report shall be substantially as follows:

Period of time covered by this report -----
 Gross amount of funds collected for the individual charity, person, or purpose -----
 Amount of funds applied to the individual charity, person, or purpose -----
 Additional amount (if any) to be applied -----
 Amount expended and to be expended for expenses of solicitation (if any) not including the value of the broadcast time or newspaper space devoted to the solicitation ----- Said report shall be maintained and available for public inspection for a period of not less than three years. [1977 1st ex.s. c 222 § 17; 1973 1st ex.s. c 66 § 1.]

**Chapter 19.16
 COLLECTION AGENCIES**

Sections	
19.16.120	Denial, suspension, revocation or refusal to renew licenses—Civil penalty—Grounds.
19.16.351	Additional powers and duties of board.
19.16.360	Licenses—Denial, suspension, revocation or refusal to renew—Civil penalty—Hearing.

19.16.120 Denial, suspension, revocation or refusal to renew licenses—Civil penalty—Grounds. In addition to other provisions of this chapter, any license issued pursuant to this chapter or any application therefor may be denied, not renewed, revoked, or suspended, or in lieu of or in addition to suspension a licensee may be assessed a civil, monetary penalty in an amount not to exceed one thousand dollars:

(1) If an individual applicant or licensee is less than eighteen years of age or is not a resident of this state.

(2) If an applicant or licensee is not authorized to do business in this state.

(3) If the application or renewal forms required by this chapter are incomplete, fees required under RCW 19.16.140 and 19.16.150 have not been paid, and the surety bond or cash deposit or other negotiable security acceptable to the director required by RCW 19.16.190 has not been filed or renewed or is canceled.

(4) If any individual applicant, owner, officer, director, or managing employee of a nonindividual applicant or licensee:

(a) Shall have knowingly made a false statement of a material fact in any application for a collection agency license or renewal thereof, or in any data attached thereto and two years have not elapsed since the date of such statement;

(b) Shall have had a license to engage in the business of a collection agency denied, not renewed, suspended, or revoked by this state, any other state, or foreign country, for any reason other than the nonpayment of licensing fees or failure to meet bonding requirements: *Provided*, That the terms of this subsection shall not apply if:

(i) Two years have elapsed since the time of any such denial, nonrenewal, or revocation; or

(ii) The terms of any such suspension have been fulfilled;

(c) Has been convicted in any court of any felony involving forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, or conspiracy to defraud and is incarcerated for that offense or five years have not elapsed since the date of such conviction;

(d) Has had any judgment entered against him in any civil action involving forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, or conspiracy to defraud and five years have not elapsed since the date of the entry of the final judgment in said action: *Provided*, That in no event shall a license be issued unless the judgment debt has been discharged;

(e) Has had his license to practice law suspended or revoked and two years have not elapsed since the date of such suspension or revocation, unless he has been relicensed to practice law in this state;

(f) Has had any judgment entered against him or it under the provisions of RCW 19.86.080 or 19.86.090 involving a violation or violations of RCW 19.86.020 and two years have not elapsed since the entry of the final judgment: *Provided*, That in no event shall a license be issued unless the terms of such judgment, if any, have been fully complied with: *Provided further*, That said judgment shall not be grounds for denial, suspension, nonrenewal, or revocation of a license unless the judgment arises out of and is based on acts of the applicant,

owner, officer, director, managing employee, or licensee while acting for or as a collection agency;

(g) Has petitioned for bankruptcy, and two years have not elapsed since the filing of said petition;

(h) Shall be insolvent in the sense that his or its liabilities exceed his or its assets or in the sense that he or it cannot meet his or its obligations as they mature;

(i) Has failed to pay any civil, monetary penalty assessed in accordance with RCW 19.16.351 or 19.16.360 within ten days after the assessment becomes final; or

(j) Has knowingly failed to comply with, or violated any provisions of this chapter or any rule or regulation issued pursuant to this chapter, and two years have not elapsed since the occurrence of said noncompliance or violation.

Any person who is engaged in the collection agency business as of January 1, 1972 shall, upon filing the application, paying the fees, and filing the surety bond or cash deposit or other negotiable security in lieu of bond required by this chapter, be issued a license hereunder. [1977 1st ex.s. c 194 § 1; 1973 1st ex.s. c 20 § 1; 1971 ex.s. c 253 § 3.]

19.16.351 Additional powers and duties of board.

The board, in addition to any other powers and duties granted under this chapter:

(1) May adopt, amend, and rescind such rules and regulations for its own organization and procedure and such other rules and regulations as it may deem necessary in order to perform its duties hereunder.

(2) When an applicant or licensee has requested a hearing as provided in RCW 19.16.360 the board shall meet and after notice and hearing may deny any application for a license hereunder, and may fail to renew, suspend, or revoke any license issued hereunder, if the applicant or licensee has failed to comply with or violated any provision of this chapter or any rule or regulation issued pursuant to this chapter. In its discretion, the board may assess a civil, monetary penalty against a licensee in an amount not to exceed one thousand dollars in lieu of or in addition to suspension. It shall be the duty of the board within thirty days after the last day of hearing to notify the appellant of its decision.

(3) May inquire into the needs of the collection agency business, the needs of the director, and the matter of the policy of the director in administering this chapter, and make such recommendations with respect thereto as, after consideration, may be deemed important and necessary for the welfare of the state, the welfare of the public, and the welfare and progress of the collection agency business.

(4) Upon request of the director, confer and advise in matters relating to the administering of this chapter.

(5) May consider and make appropriate recommendations to the director in all matters referred to the board.

(6) Upon his request, confer with and advise the director in the preparation of any rules and regulations to be adopted, amended, or repealed.

(7) May assist the director in the collection of such information and data as the director may deem necessary to the proper administration of this chapter. [1977 1st ex.s. c 194 § 2; 1973 1st ex.s. c 20 § 8.]

19.16.360 Licenses—Denial, suspension, revocation or refusal to renew—Civil penalty—Hearing.

(1) Whenever the director shall have reasonable cause to believe that grounds exist for denial, nonrenewal, revocation or suspension of a license issued or to be issued under this chapter, or in lieu of or in addition to suspension that a licensee should be assessed a civil, monetary penalty not to exceed one thousand dollars, he shall notify the applicant or licensee in writing by certified or registered mail, with return receipt requested, stating the grounds upon which it is proposed that the license be denied, revoked, not renewed, or suspended and upon which any monetary penalty is going to be assessed and the amount of the penalty.

(2) Within thirty days from the receipt of notice of the alleged grounds for denial, revocation, lack of renewal, or suspension or for the monetary penalty to be assessed in lieu of or in addition to suspension, the applicant or licensee may serve upon the director a written request for hearing before the board. Service of a request for a hearing shall be by certified mail and shall be addressed to the director at his office in Thurston county. Upon receiving a request for a hearing, the director shall fix a date for which the matter may be heard by the board, which date shall be not less than thirty days from the receipt of the request for such hearing. If no request for hearing is made within the time specified, the license shall be deemed denied, revoked, or not renewed or the license shall be deemed suspended and/or the civil, monetary penalty shall be deemed assessed.

(3) Whenever a licensee who has made timely and sufficient application for the renewal of a license, receives notice from the director that it is proposed that his or its license is not to be renewed, and said licensee requests a hearing under subsection (2) of this section, the licensee's current license shall not expire until the last day for seeking review of the board's decision expires or if judicial review of the board's decision is sought until final judgment has been entered by the superior court, or in the event of an appeal or appeals, until final judgment has been entered by the last appellate court in which review has been sought. [1977 1st ex.s. c 194 § 3; 1973 1st ex.s. c 20 § 4; 1971 ex.s. c 253 § 27.]

Chapter 19.24

COPYRIGHT PROTECTION

Sections

19.24.140 Injunction—Receivership—Escheat.

19.24.140 Injunction—Receivership—Escheat.

In the event any person, or groups of persons, or any combination or pool as aforesaid, whether a nonresident corporation, person, or an association, or domestic,

refuse to abide by the provisions hereof, or attempt to evade or render ineffectual the true enforcement of any provision of this chapter, then the prosecuting attorney of any county where complaint is made of any violation, shall institute injunction proceedings against said persons in the superior court, and valid personal service may be had upon any nonresident defendant as set forth in RCW 19.24.100; and the court shall enjoin all persons from violating the provisions of this chapter and the constitutional provisions prohibiting price fixing, monopolies, and combinations, and all copyrighted works and the public performance rights thereto when sold or used for profit are hereby declared to be a commercial commodity, and all persons, aiders and abettors, and agents, shall be enjoined by the court from aiding or furthering in any way a continuation of any violation of this chapter, either by the payment of money to said defendants or in any way; and if any defendant or defendants persist in defying the judgment of the court, the court shall, in order to effectuate its judgment and orders, order three days' notice be given said defendant or defendants, as the case may be, by having a copy of such notice served on the secretary of state as heretofore provided if defendants are without the state, or served personally if within the state, and have the same published in some daily paper in the state of general circulation, and at the end of said period, if any defendant or defendants refuse to obey the order of the court, then the court shall appoint the county auditor as receiver for the copyrighted works and property of defendants, tangible or intangible, and of all other effects and moneys derived therefrom, and the receiver shall take over and preserve the commercial rights to all of said copyrighted works, together with such other property of any defendant, combination, pool, corporation, or entity through which they are acting, that he can locate within the state, and the receiver shall administer the same under the direction of the court, and said receivership shall be considered only as an incident to the main injunction suit of the prosecutor, and for the purpose of enforcing the court's orders; the said receiver shall seize the copyrighted works of all of the copyright holders and owners in said defendant combination, including all of the rights to suits for infringement and damages in both state and federal courts, and all choses of action, and all sums due on contracts and licenses, and hold the same subject to the order of the court; and all persons holding licenses or contracts with any defendant combination or entity, shall pay the fees and sums due thereon to the receiver for such time as the court may need to effectuate the provisions of this chapter, and to compel any defendant to abide herewith: *Provided*, Any sums paid on licenses violating this chapter shall only be continued in the court's discretion or until such time as the court can award defendants complete and full due process of law before entering a final order thereon, or until such time as a legal and equitable system of licensing can be determined according to the subsequent provisions of this chapter: *Provided, further*, In the event any defendant or defendants attempt to withdraw their said copyright works or property from the state in order to violate and render this chapter or the court's order ineffectual,

or to deprive the citizens of this state of such commodity, or to hamper the enforcement of any provision of this chapter, or to injure any citizen or user of music in any way, then the court shall immediately order the receiver to compile a complete list of all of the copyrighted works of said defendants which have been used in this state, and the court shall then call on the state treasurer and the state auditor who shall jointly establish license rates for the use of those copyrighted works controlled by the defendants so proceeded against; and for the purpose of aiding in the abolition of monopolies and price fixing, and preventing violations of this chapter, they shall determine a fair and just rate that the receiver should charge for the single and separate public performance for profit of each copyrighted work or works of said defendants, on a per piece system and basis of licensing; after determining such rate, they shall immediately advise the receiver of its findings, and of its fair rate, and the same shall be filed of record in the cause, and the receiver may then, if said finding is approved by the court, issue licenses for the use of said music at such approved rate on a basis of so much money per each time a piece of music is played or used in a public performance for profit; that said property shall be thus administered by the receiver for a period of one year, or until such time as the defendants, or the individual copyright owners of any combination so proceeded against take oath that they will abide by the rulings of the court and the provisions of this chapter; and all fees and funds collected by the receiver shall be turned over to the state treasurer, and no receiver's fees or attorney's fees shall be allowed, and the prosecuting attorney shall be the attorney for the receiver, and the state treasurer shall keep said money in a separate and special fund, subject to the order of the court only for whatever portion thereof that the court may order used to defray the actual expenses incurred by any prosecuting attorney or county auditor in connection with this action; at the end of one year, if the defendants and copyright owners or holders in any combination thus proceeded against, continue to wilfully disobey the court's orders, then the court shall issue an order, which shall be published in three public places, to the effect that unless the defendants obey all of the orders of the court within ten days from the date of said order, that the court will proceed to permanently deprive said defendants and each of them of their property; and the court shall then order said defendants to show cause within ten days why they should not be involuntarily compelled to assign all of their copyrighted works to the receiver forthwith, and to show cause why all of the funds as collected in the manner aforesaid from licenses, together with all of the copyrighted works including the performing rights thereto of said defendants and members of said combine, should not escheat and be forfeited forever to the state of Washington, and be subject thereafter to administration by the state in the same manner as all other personal property belonging to the state of Washington; if any of said defendants and copyright holders, or owners, do appear before the end of said ten day period, and take oath that they will abide by the future orders of the court and the provisions of this chapter, then the court

shall release their copyrighted works and order the state treasurer to return any and all of their money which has been received or seized: *Provided, however,* The court shall retain such jurisdiction over their persons for such time as the court may deem necessary to insure strict compliance with the terms of the court's judgment and the provisions of this chapter; if any of said defendants or copyright owners or holders shall ignore or refuse to obey the show cause order, as aforesaid, or fail to appear at the end of ten days as ordered and abide by the court's judgment, then the court shall make an order and enter judgment to the effect that all of the copyrighted works, including the performing rights thereto, of said defendants and the members of any defendant combination, shall be construed as having been escheated and forfeited to the state of Washington, and the court shall thereupon appoint some officer of the court to execute an involuntary assignment of all the legal and equitable titles to all of the copyrighted works of each of said defendants and members of any defendant combination to the receiver, in the event the defendants or any of their members fail to execute a voluntary assignment, and the receiver shall immediately file said involuntary assignment at the United States Copyright Office at Washington, D.C.; and the court shall then order the receiver to close the estate, and turn the titles to said copyrighted works over by proper assignment from the receiver to the state treasurer of the state of Washington, who shall thereafter administer, issue licenses for the use of the same in a manner consistent with this chapter, and conserve the same as state personal property in his possession, and according to law; and any funds left in the state treasury from said receivership shall escheat and be forfeited to the state and become part of the general fund. [1977 1st ex.s. c 82 § 1; 1937 c 218 § 9; RRS § 3802-8. Formerly RCW 19.24.140 through 19.24.270.]

Chapter 19.27

STATE BUILDING CODE

Sections

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19.27.310	Captions.
19.27.320	Study of state building code relating to energy by legislative committees on energy and utilities.
19.27.905	Severability—1977 1st ex.s. c 14.

19.27.030 National codes and standards—Adoption by reference—Conflicts. There shall be in effect in all cities, towns and counties of the state a state building code which shall consist of the following codes which are hereby adopted by reference:

(1) Uniform Building Code and Related Standards, 1973 edition, published by the International Conference of Building Officials;

(2) Uniform Mechanical Code, 1973 edition, including Chapter 22, Fuel Gas Piping, Appendix B, published by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials;

(3) The Uniform Fire Code with appendices thereto, 1973 edition, published by the International Conference of Building Officials and the Western Fire Chiefs Association;

(4) The Uniform Plumbing Code, 1973 edition, published by the International Association of Plumbing and Mechanical Officials: *Provided*, That chapter 11 of such code is not adopted: *Provided*, That notwithstanding any wording in this code, nothing in this code shall apply to the installation of any gas piping, water heaters, or vents for water heaters;

(5) The rules and regulations adopted by the council establishing standards for making buildings and facilities accessible to and usable by the physically handicapped or elderly persons as provided for in RCW 70.92.100 through 70.92.160; and

(6) The thermal performance and design standards for dwellings as set forth in RCW 19.27.210 through 19.27.290. This subsection shall be of no further force and effect when RCW 19.27.200 through 19.27.290 expire as provided in RCW 19.27.300.

In case of conflict among the codes enumerated in subsections (1), (2), (3) and (4) of this section, the first named code shall govern over those following. [1977 1st ex.s. c 14 § 11; 1975 1st ex.s. c 110 § 8; 1974 ex.s. c 96 § 3.]

Effective date—1975 1st ex.s. c 110 §§ 8, 9 and 10: "Sections 8, 9, and 10 of this amendatory act shall take effect on July 1, 1976." [1975 1st ex.s. c 110 § 12.] This applies to the 1975 amendments to RCW 19.27.030 and 19.27.040 and to the repeal of RCW 70.92.010–70.92.060 and RCW 70.92A.010–70.92A.060.

Public buildings and accommodations, provisions for elderly and handicapped: Chapter 70.92 RCW.

19.27.040 Cities and counties authorized to amend state building code—Adopt revisions—Limitations. On and after January 1, 1975, the governing body of each city, town or county is authorized to amend the state building code as it applies within its jurisdiction in all such respects as shall be not less than the minimum performance standards and objectives enumerated in RCW 19.27.020, including, the authority to adopt any subsequent revisions to the codes in RCW 19.27.030(1), (2), (3), (4), (5), and (6), as now or hereafter amended: *Provided*, That amendments to RCW 19.27.030(6), so adopted result in structures that do not exceed the overall structural heat loss characteristics that would have resulted from conforming to RCW 19.27.030(6), as now or hereafter amended.

Nothing in this section shall authorize any modifications of the requirements of chapter 35, Laws of 1967, or chapter 70.92 RCW. [1977 1st ex.s. c 14 § 12; 1974 ex.s. c 96 § 4.]

Reviser's note: Chapter 14, Laws of 1977 1st ex.s. amended RCW 19.27.040 as originally enacted and did not include the changes in language made by an intervening amendment to the section by 1975 1st ex.s. c 110 § 9.

THERMAL PERFORMANCE AND DESIGN STANDARDS

19.27.200 Application and scope. There shall be in effect in all cities, towns, and counties of the state thermal performance and design standards for new dwellings for which building permits are applied subsequent to ninety days after September 21, 1977 as set forth in this amendatory act.

This amendatory act shall apply to all new dwellings which are equipped with heating and/or cooling systems and for which applications for building permits are made subsequent to ninety days after September 21, 1977: *Provided, however*, This amendatory act shall not be applicable to single family dwellings not intended for year round occupancy, as the term "dwellings not intended for year round occupancy" is defined by the county legislative authority. [1977 1st ex.s. c 14 § 1.]

Reviser's note: "This amendatory act" or "this 1977 amendatory act" [1977 1st ex.s. c 14] apparently consists of RCW 19.27.200–19.27.310, 19.27.905, 44.39.038, and amendments to RCW 19.27.030, 19.27.040.

19.27.210 Purpose. The legislature finds that it is in the public interest to provide a reasonable degree of conservation of critical energy supplies, and that *this amendatory act will establish certain necessary maximum allowable heat loss rates and/or minimum thermal performance standards for dwellings to achieve this degree of energy conservation. [1977 1st ex.s. c 14 § 2.]

***Reviser's note:** "this amendatory act", see note following RCW 19.27.200.

19.27.220 Definitions. For the purpose of *this amendatory act, the following definitions shall apply:

(1) "Dwelling" means any building or any portion thereof which provides complete, independent living facilities which are used, intended, or designed to be built, used, rented, leased, let, or hired out to be occupied or which are occupied for living purposes. "Dwelling" does not include apartment houses over three stories in height, hotels, motels, or lodging houses.

(2) "ASHRAE" means the American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc.

(3) "BTU" means British Thermal Unit.

(4) "C" value (thermal conductance) means the amount of heat, measured in BTU's, transferred through one square foot of a building material of given thickness in one hour when there is one degree temperature difference between the surfaces of the material.

(5) "R" value (thermal resistance) means the measure from the resistance of a material or building component

to the passage of heat. The resistance value "R" of mass type insulations shall be for the material only. "R" values shall be as listed in the current ASHRAE Handbook of Fundamentals, or as tested in accordance with current applicable standards.

(6) "U" value means the total heat flow, measured in BTU's, through one square foot of a building section or assembly, air to air, in one hour per degree F. temperature difference. Mathematically $U = 1 \div R$ (subscript t) in which R (subscript t) equals the sum of the resistance (R) for the individual components of the assembly. "U" values shall be calculated according to ASHRAE methods and shall not consider the effect of occasional framing members such as studs or joists.

(7) "Exterior wall area" means the gross area of wall surfaces of heated spaces which are exposed to outside temperatures, and includes wall areas, window areas, door areas, and areas of foundation walls above the exterior grade.

(8) "Glazing" means all transparent or translucent materials in exterior wall openings. For the purpose of calculating the area of glazed openings, the area of sash shall be included.

(9) "Special glazing" means glazing which has a maximum "U" value of 0.70. Insulating glass with at least one quarter inch air space or approved storm sash will be considered to provide the "U" value required.

(10) "Unheated spaces" means any space exposed to outside temperatures and not provided with a heat supply capable of maintaining a minimum temperature of 50°F This will include, but not be limited to, ventilated crawl spaces, attics, unheated garages, and unheated basement areas.

(11) "Heating and/or cooling systems" means any device or combination of devices which consume any fuel and/or electricity for the purpose of providing heat to or removing heat from a building to maintain its interior temperature above or below outside temperature. [1977 1st ex.s. c 14 § 3.]

*Reviser's note: "this amendatory act", see note following RCW 19.27.200.

19.27.230 Compliance. (1) General. Dwellings covered by *this amendatory act shall be so constructed that the total structural heat loss from the building will not exceed the total structural heat loss resulting from compliance with the maximum "U" or "C" values for the component parts as specified in this chapter: *Provided*, That compliance with these provisions shall be deemed conclusive when certified to by a registered architect or registered mechanical engineer. In lieu of the "U" or "C" value listed, installed insulation with the minimum "R" value (insulation material only) listed for each location shall be deemed to satisfy those requirements.

(2) Compliance Card. Upon completion of the installation of insulation, a card certifying that the insulation has been installed in conformance with the requirements of *this 1977 amendatory act shall be completed and signed by the builder or insulation applicator. For this purpose, any certification card which contains all the essential data may be used. The insulation compliance

card shall indicate the "R" value of insulation (material only) installed in the ceilings, walls, floors, on the perimeter, and ducts. When loose fill insulation is used the card shall show the square footage and the number and weight of bags installed to obtain the "R" value listed. The card must be posted at a conspicuous location within the building and will indicate the installation date. [1977 1st ex.s. c 14 § 4.]

*Reviser's note: "this amendatory act", "this 1977 amendatory act", see note following RCW 19.27.200.

19.27.240 Thermal design standards for ceilings and exterior wall sections above grade excluding doors and windows. Ceilings and above grade exterior wall sections, excluding doors and windows, must be constructed to comply with the values as shown in Table A.

TABLE A

Maximum allowed "U" values of ceiling and above grade exterior wall sections. Minimum "R" values shown are for added insulation material only.

Roof Decks ¹		Ceilings ^{2 5}		Concrete or Masonry ³		Walls Wood or Metal Frame ³⁻⁴	
"U"	"R"	"U"	"R"	"U"	"R"	"U"	"R"
0.09	8	0.05	19	0.13	6	0.08	11

Footnotes to Table A:

1. Indicates construction using rigid insulation installed on the roof deck. When adequate space within the roof cavity is available and insulation is on the ceiling, use the values for ceilings.
2. When enclosed rafter spaces are formed by ceilings being applied directly to the underside of the roof rafters, the ceiling rafters must be of sufficient size to provide a minimum of one inch clear vented air space above the insulation.
3. Exterior concrete or masonry foundation walls of heated "unfinished" basements and cellars extending no more than an average of 24 inches above the adjacent finish grade need not be insulated until finished. Insulation installed shall comply with the requirements of this table and apply to above and below grade foundation walls: *Provided*, That any exterior frame cripple walls enclosing heated spaces shall comply with the insulation requirements of this table.
4. Where there are no occasional framing members such as studs, or when all of the thermal insulation is not penetrated by occasional framing members, the required maximum allowable U-values may be increased by multiplying by a factor of 1.15.
5. Ceilings between two adjacent heated spaces need not be insulated.

[1977 1st ex.s. c 14 § 5.]

19.27.250 Thermal design standards for openings. (1) When more than twenty-five percent of the exterior wall area of buildings constructed east of the Cascade Mountain Ridge and when more than thirty-five percent of the exterior wall area of buildings constructed west of

the Cascade Mountain Ridge consists of glazing, at least one-half shall be special glazing. However if the glazing exceeds forty percent of the exterior wall area, at least ninety percent must be special glazing. For this purpose, exterior walls enclosing heated spaces in the entire structure shall be included in calculating the overall percentage of glazing.

(2) Skylights in ceilings and roofs shall have a "U" value not exceeding 0.70 if their total area exceeds two percent of the gross ceiling area. Insulating glass with at least one-quarter inch air space or double-walled plastic bubbles will be considered to provide the "U" value required. [1977 1st ex.s. c 14 § 6.]

19.27.260 Thermal design standards for floor sections and slabs-on-grade. (1) Floor Sections over Unheated Spaces. Insulation shall be required in floor sections over unheated spaces with a maximum "U" value 0.08 and a minimum insulation "R" value 9: *Provided*, That insulation shall not be required in floor sections over heated crawl space plenum areas or in vented crawl spaces where the vents are equipped with tightly-fitting operable louvers: *Provided*, That the perimeter walls are insulated from the interior ground level to the subflooring to provide maximum "U" value of 0.13 minimum insulation "R" value 6. Insulation material shall be attached in a permanent manner. Floors over other heated spaces need not be insulated.

(2) Slab-on-Grade Floors of Heated Spaces. The "R" value of the insulation around the perimeter of the floor shall be not less than that shown in Table B. Insulation shall extend downward from the top of the slab or, alternatively, downward and then horizontally under the slab for the minimum distances specified. Perimeter insulation may be installed on the outside of the foundation wall if it is protected from weather and damage. Insulation shall not be required for any portion of the slab floor that is more than 12 inches below the adjacent exterior grade.

TABLE B

MINIMUM ALLOWABLE "R" VALUES AND DEPTHS OF EDGE INSULATION FOR SLAB-ON-GRADE FLOORS

Heated Slabs ¹		Unheated Slabs	
"R" Value	Inches	"R" Value	Inches
6	18	4	12

Footnote to Table B:

¹Slabs internally heated or with perimeter heat ducts in or under the slab.

[1977 1st ex.s. c 14 § 7.]

19.27.270 General construction requirements. (1) A minimum ground cover of 4 mil. (0.004 inch) polyethylene or equivalent, lapped one foot at each joint, is required in crawl spaces. A vapor barrier shall be properly installed at exterior frame walls and in ceilings formed when a finish surface is applied directly to the underside of the roof rafters.

(2) Loose Fill. Blown or poured loose fill insulation may be used in attic spaces where the slope of the roof is not less than 2 1/2 feet in 12 feet and there is at least 30 inches of clear distance from the top of the bottom chord of the truss or ceiling joist to the underside of the roof sheathing at the roof ridge. When eave vents are installed, adequate baffling of the vent openings must be provided so as to deflect the incoming air above the surface of the insulation. In lieu of a framing baffle, batt or blanket insulation with an equivalent "R" value for ceilings as specified in Table A may be installed from the outer edge of the exterior wall extending a minimum of two feet inwards.

(3) Air Leakage. All doors, windows, skylights, and openings enclosing a heated space and exposed to the exterior or to unheated spaces shall be weatherstripped, caulked, gasketed, or otherwise treated in accordance with sound building practices. [1977 1st ex.s. c 14 § 8.]

19.27.280 Duct insulation. When supply and return air ducts used for heating and/or cooling are located in unheated spaces, they shall be insulated to provide a maximum "C" value of 0.30 at 75°F mean temperature, minimum insulation "R" value 3.5. [1977 1st ex.s. c 14 § 9.]

19.27.290 Piping insulation. All steam and steam condensate return piping and all continuously circulating heating hot water piping which is located in unheated spaces shall be insulated to provide a maximum "C" value of 0.30 at 75° mean temperature, minimum insulation "R" value 3.5. Insulation shall not be required where piping passes through framing members. [1977 1st ex.s. c 14 § 10.]

19.27.300 Expiration of RCW 19.27.200 through 19.27.290. RCW 19.27.200 through 19.27.290, as now or hereafter amended, shall expire at such time as the thermal performance standards are incorporated in the uniform building code and related standards as published by the international conference of building officials, and adopted by the legislature of the state of Washington. [1977 1st ex.s. c 14 § 14.]

19.27.310 Captions. Chapter, section, and subsection captions or headings as used in sections 1 through 10 of this amendatory act do not constitute any part of the law. [1977 1st ex.s. c 14 § 16.]

Reviser's note: Sections 1 through 10 of 1977 1st ex.s. c 14 are codified as RCW 19.27.200–19.27.290.

19.27.320 Study of state building code relating to energy by legislative committees on energy and utilities. See RCW 44.39.038.

19.27.905 Severability—1977 1st ex.s. c 14. 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. [1977 1st ex.s. c 14 § 17.]

**Chapter 19.28
ELECTRICIANS AND ELECTRICAL
INSTALLATIONS**

Sections

19.28.123 Board of electrical examiners—Created—Membership—Examinations—Meetings—Compensation—Travel expenses.

19.28.123 Board of electrical examiners—Created—Membership—Examinations—Meetings—Compensation—Travel expenses. There is hereby created a board of electrical examiners consisting of nine members to be appointed by the governor. It shall be the purpose and function of this board to establish in addition to a general electrical contractors' license, such classifications of specialty electrical contractors' licenses as it deems appropriate with regard to individual sections pertaining to state adopted codes in chapter 19.28 RCW. In addition, it shall be the purpose and function of this board to establish and administer written examinations for general electrical contractors' qualifying certificates and the various specialty electrical contractors' qualifying certificates. Examinations shall be designed to reasonably insure that general and specialty electrical contractor's qualifying certificate holders are competent to engage in and supervise the work covered by this statute and their respective licenses. The examinations shall include questions from the following categories to assure proper safety and protection for the general public: (1) Safety, (2) state electrical code, and (3) electrical theory. It shall be the further purpose and function of this board to advise the director as to the need of additional electrical inspectors and compliance officers to be utilized by the director on either a full time or part time employment basis. Meetings of the board shall be held quarterly on the first Monday of February, May, August and November of each year. Each member of the board shall be paid twenty-five dollars for each day or portion thereof that the board is in session and each member shall also receive travel expenses as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, which shall be paid out of the electrical license fund, upon vouchers approved by the director of labor and industries. [1977 1st ex.s. c 79 § 1; 1975-'76 2nd ex.s. c 34 § 62; 1975 1st ex.s. c 195 § 2; 1975 1st ex.s. c 92 § 2; 1974 ex.s. c 188 § 2.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Severability—1975 1st ex.s. c 195, 1975 1st ex.s. c 92: See note following RCW 19.28.120.

Effective date—Severability—1974 ex.s. c 188: See notes following RCW 19.28.120.

**Chapter 19.31
EMPLOYMENT AGENCIES**

Sections

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19.31.110 Expiration date of licenses—Reinstatement.
19.31.170 Limitations on fee amounts—Refunds.
19.31.190 Rules of conduct—Complaints.
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19.31.245 Licensing prerequisite to suit by employment agency—Action against unlicensed employment agency.

19.31.020 Definitions. Unless a different meaning is clearly required by the context, the following words and phrases, as hereinafter used in this chapter, shall have the following meanings:

(1) "Employment agency" is synonymous with "agency" and shall mean any business in which any part of the business gross or net income is derived from a fee received from applicants, and in which any of the following activities are engaged in:

- (a) The offering, promising, procuring, or attempting to procure employment for applicants; or
- (b) The giving of information regarding where and from whom employment may be obtained.

In addition the term "employment agency" shall mean and include any person, bureau, organization, or school which for profit, by advertisement or otherwise, offers, as one of its main objects or purposes, to procure employment for any person who pays for its services, or which collects tuition, or charges for service of any nature, where the main object of the person paying the same is to secure employment. The term "employment agency" shall not include labor union organizations, temporary service contractors, proprietary schools, theatrical agencies, farm labor contractors, or the Washington state employment agency.

(2) "Temporary service contractors" shall mean any person, firm, association, or corporation conducting a business which consists of employing individuals directly for the purpose of furnishing such individuals on a part time or temporary help basis to others.

(3) "Theatrical agency" means any person who, for a fee or commission, procures or attempts to procure on behalf of an individual or individuals, employment or engagements for circus, vaudeville, the variety field, the legitimate theater, motion pictures, radio, television, phonograph recordings, transcriptions, opera, concert, ballet, modeling, or other entertainments, exhibitions, or performances.

(4) "Farm labor contractor" means any person, or his agent, who, for a fee, employs workers to render personal services in connection with the production of any farm products, to, for, or under the direction of an employer engaged in the growing, producing, or harvesting of farm products, or who recruits, solicits, supplies, or hires workers on behalf of an employer engaged in the growing, producing, or harvesting of farm products or who provides in connection with recruiting, soliciting, supplying, or hiring workers engaged in the growing,

producing, or harvesting of farm products, one or more of the following services: Furnishes board, lodging, or transportation for such workers, supervises, times, checks, counts, sizes, or otherwise directs or measures their work; or disburses wage payments to such persons.

(5) "Employer" means any person, firm, corporation, partnership, or association employing or seeking to enter into an arrangement to employ a person through the medium or service of an employment agency.

(6) "Applicant", except when used to describe an applicant for an employment agency license, means any person, whether employed or unemployed, seeking or entering into any arrangement for his employment or change of his employment through the medium or service of an employment agency.

(7) "Person" includes any individual, firm, corporation, partnership, association, company, society, manager, contractor, subcontractor, bureau, agency, service, office, or an agent or employee of any of the foregoing.

(8) "Director" shall mean the director of the department of motor vehicles. [1977 1st ex.s. c 51 § 1; 1969 ex.s. c 228 § 2.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

19.31.040 Contract between agency and applicant—Contents—Notice. An employment agency shall provide each applicant with a copy of the contract between the applicant and employment agency which shall have printed on it or attached to it a copy of RCW 19.31.170 as now or hereafter amended. Such contract shall contain the following:

- (1) The name, address, and telephone number of the employment agency;
- (2) Trade name if any;
- (3) The date of the contract;
- (4) The name of the applicant;
- (5) The amount of the fee to be charged the applicant, or the method of computation of the fee, and the time and method of payments: *Provided, however,* That if the provisions of the contract come within the definition of a "retail installment transaction", as defined in RCW 63.14.010(5) as now or hereafter amended, the contract shall conform to the requirements of chapter 63.14 RCW, as now or hereafter amended;

(6) A notice in eight-point bold face type or larger directly above the space reserved in the contract for the signature of the buyer. The caption, "NOTICE TO APPLICANT—READ BEFORE SIGNING" shall precede the body of the notice and shall be in ten-point bold face type or larger. The notice shall read as follows:

"This is a contract. If you accept employment with any employer through [name of employment agency] you will be liable for the payment of the fee as set out above. Do not sign this contract before you read it or if any spaces intended for the agreed terms are left blank. You must be given a copy of this contract at the time you sign it." [1977 1st ex.s. c 51 § 2; 1969 ex.s. c 228 § 4.]

19.31.060 Request from employer for interview required—Information to be furnished applicant. No employment agency shall send any applicant on an interview with a prospective employer without having first obtained, either orally or in writing, a bona fide request from such employer for the interview: *Provided, however,* That, it shall be the duty of every employment agency to give to each applicant for employment, orally or in writing, before being sent on an interview, information as to the name and address of the person to whom the applicant is to apply for such employment, the kind of service to be performed, the anticipated rate of wages or compensation, the agency's fee based on such anticipated wages or compensation, whether such employment is permanent or temporary, and the name and address of the natural person authorizing the interviewing of such applicant. [1977 1st ex.s. c 51 § 3; 1969 ex.s. c 228 § 6.]

19.31.090 Bond—Cash deposit—Action on bond or deposit—Procedure—Judgment. (1) Before conducting any business as an employment agency each licensee shall file with the director a surety bond in the sum of two thousand dollars running to the state of Washington, for the benefit of any person injured or damaged as a result of any violation by the licensee or his agent of any of the provisions of this chapter or of any rule or regulation adopted by the director pursuant to RCW 19.31.070(1).

(2) In lieu of the surety bond required by this section the license applicant may file with the director a cash deposit or other negotiable security acceptable to the director: *Provided, however,* If the license applicant has filed a cash deposit, the director shall deposit such funds with the state treasurer. If the license applicant has deposited cash or other negotiable security with the director, the same shall be returned to the licensee at the expiration of one year after the employment agency's license has expired or been revoked, if no legal action has been instituted against the licensee or the surety deposit at the expiration of the year.

(3) Any person having a claim against an employment agency for any violation of the provisions of this chapter or any rule or regulation promulgated thereunder may bring suit upon such bond or deposit in an appropriate court of the county where the office of the employment agency is located or of any county in which jurisdiction of the employment agency may be had. Action upon such bond or deposit shall be commenced by serving and filing of the complaint within one year from the date of expiration of the employment agency license in force at the time the act for which the suit is brought occurred. A copy of the complaint shall be served by registered or certified mail upon the director at the time the suit is started, and the director shall maintain a record, available for public inspection, of all suits so commenced. Such service on the director shall constitute service on the surety and the director shall transmit the complaint or a copy thereof to the surety within five business days after it shall have been received. The surety upon the bond shall not be liable in an aggregate amount in excess of the amount named in the bond, but in case

claims pending at any one time exceed the amount of the bond, claims shall be satisfied in the order of judgment rendered. In the event that any final judgment shall impair the liability of the surety upon bond so furnished or the amount of the deposit so that there shall not be in effect a bond undertaking or deposit in the full amount prescribed in this section, the director shall suspend the license of such employment agency until the bond undertaking or deposit in the required amount, unimpaired by unsatisfied judgment claims, shall have been furnished.

(4) In the event of a final judgment being entered against the deposit or security referred to in subsection (2) of this section, the director shall, upon receipt of a certified copy of the final judgment, order said judgment to be paid from the amount of the deposit or security. [1977 1st ex.s. c 51 § 4; 1969 ex.s. c 228 § 9.]

19.31.100 Applications—Contents—Filing—Qualifications of applicants and licensees—Waiver. (1)

Every applicant for an employment agency's license or a renewal thereof shall file with the director a written application stating the name and address of the applicant; the street and number of the building in which the business of the employment agency is to be conducted; the name of the person who is to have the general management of the office; the name under which the business of the office is to be carried on; whether or not the applicant is pecuniarily interested in the business to be carried on under the license; shall be signed by the applicant and sworn to before a notary public; and shall identify anyone holding over twenty percent interest in the agency. If the applicant is a corporation, the application shall state the names and addresses of the officers and directors of the corporation, and shall be signed and sworn to by the president and secretary thereof. If the applicant is a partnership, the application shall also state the names and addresses of all partners therein, and shall be signed and sworn to by all of them. The application shall also state whether or not the applicant is, at the time of making the application, or has at any previous time been engaged in or interested in or employed by anyone engaged in the business of an employment agency.

(2) The application shall require a certification that no officer or holder of more than twenty percent interest in the business has been convicted of a felony within ten years of the application which directly relates to the business for which the license is sought, or had any judgment entered against such person in any civil action involving fraud, misrepresentation, or conversion.

(3) All applications for employment agency licenses shall be accompanied by a copy of the form of contract and fee schedule to be used between the employment agency and the applicant.

(4) No license to operate an employment agency in this state shall be issued, transferred, renewed, or remain in effect, unless the person who has or is to have the general management of the office has qualified pursuant to this section. The director may, for good cause shown, waive the requirement imposed by this section for a

period not to exceed one hundred and twenty days. Persons who have been previously licensed or who have operated to the satisfaction of the director for at least one year prior to September 21, 1977 as a general manager shall be entitled to operate for up to one year from such date before being required to qualify under this section. In order to qualify, such person shall, through testing procedures developed by the employment agency advisory board, show to the director's satisfaction that such person has a knowledge of this law, pertinent labor laws, and laws against discrimination in employment in this state and of the United States. Said examination shall be given at least once each quarter and a fee for such examination shall be established by the director. Nothing in this chapter shall be construed to preclude any one natural person from being designated as the person who is to have the general management of up to three offices operated by any one licensee. [1977 1st ex.s. c 51 § 5; 1969 ex.s. c 228 § 10.]

19.31.110 Expiration date of licenses—Reinstatement. An employment agency license shall expire June 30th. Any such license not renewed may be reinstated if the employment agency can show good cause to the director for renewal of the license and present proof of intent to continue to act as an employment agency: *Provided*, That no license shall be issued upon such application for reinstatement until all fees and penalties previously accrued under this chapter have been paid. [1977 1st ex.s. c 51 § 6; 1969 ex.s. c 228 § 11.]

19.31.170 Limitations on fee amounts—Refunds.

(1) If an applicant accepts employment by agreement with an employer and thereafter never reports for work, the gross fee charged to the applicant shall not exceed: (a) Ten percent of what the first month's gross salary or wages would be, if known; or (b) ten percent of the first month's drawing account. If the employment was to have been on a commission basis without any drawing account, then no fee may be charged in the event that the applicant never reports for work.

(2) If an applicant accepts employment on a commission basis without any drawing account, then the gross fee charged such applicant shall be a percentage of commissions actually earned.

(3) If an applicant accepts employment and if within sixty days of his reporting for work the employment is terminated, then the gross fee charged such applicant shall not exceed twenty percent of the gross salary, wages or commission received by him.

(4) If an applicant accepts temporary employment as a domestic, household employee, baby sitter, agricultural worker, or day laborer, then the gross fee charged such applicant shall not be in excess of twenty-five percent of the first full month's gross salary or wages: *Provided*, That where an applicant accepts employment as a domestic or household employee for a period of less than one month, then the gross fee charged such applicant shall not exceed twenty-five percent of the gross salary or wages paid.

(5) Any applicant requesting a refund of a fee paid to an employment agency in accordance with the terms of

the approved fee schedule of the employment agency pursuant to this section shall file with the employment agency a form requesting such refund on which shall be set forth information reasonably needed and requested by the employment agency, including but not limited to the following: Circumstances under which employment was terminated, dates of employment, and gross earnings of the applicant.

(6) Refund requests which are not in dispute shall be made by the employment agency within thirty days of receipt. [1977 1st ex.s. c 51 § 7; 1969 ex.s. c 228 § 17.]

19.31.190 Rules of conduct—Complaints. In addition to the other provisions of this chapter the following rules shall govern each and every employment agency:

(1) Every license or a verified copy thereof shall be displayed in a conspicuous place in each office of the employment agency;

(2) No fee shall be solicited or accepted as an application or registration fee by any employment agency solely for the purpose of being registered as an applicant for employment;

(3) No licensee or agent of the licensee shall solicit, persuade, or induce an employee to leave any employment in which the licensee or agent of the licensee has placed the employee; nor shall any licensee or agent of the licensee persuade or induce or solicit any employer to discharge any employee;

(4) No employment agency shall knowingly cause to be printed or published a false or fraudulent notice or advertisement for obtaining work or employment. All advertising by a licensee shall signify that it is an employment agency solicitation;

(5) No licensee shall fail to state in any advertisement, proposal or contract for employment that there is a strike or lockout at the place of proposed employment, if he has knowledge that such condition exists;

(6) No licensee or agent of a licensee shall directly or indirectly split, divide, or share with an employer any fee, charge, or compensation received from any applicant who has obtained employment with such employer or with any other person connected with the business of such employer;

(7) When an applicant is referred to the same employer by two licensees, the fee shall be paid to the licensee who first contacted the applicant concerning the position for that applicant: *Provided*, That the licensee has given the name of the employer to the applicant and has within five working days arranged an interview with the employer and the applicant was hired as the result of that interview;

(8) No licensee shall require in any manner that a potential employee or an employee of an employer make any contract with any lending agency for the purpose of fulfilling a financial obligation to the licensee;

(9) Any aggrieved person, firm, corporation, or public officer may submit a written complaint to the director charging the holder of an employment agency license with violation of this chapter and/or the rules and regulations adopted pursuant to this chapter. [1977 1st ex.s. c 51 § 8; 1969 ex.s. c 228 § 19.]

19.31.200 Employment agency advisory board—Created—Membership—Terms—Removal—Vacancies—Meetings—Officers—Duties and responsibilities. (1) There is hereby created a board to be known as the employment agency advisory board whose duty shall be to advise the director as to the administration of the provisions of this chapter and the issuance of reasonable rules and regulations for enforcing and carrying out the provisions and purposes of this chapter. Such board shall consist of eight members, seven members thereof to be appointed by the governor, five from among those persons owning or managing employment agencies, the sixth member shall be a representative of management, and the seventh shall be a representative of labor. The attorney general or his designee shall serve as a nonvoting ex officio member of the board.

(2) Each member of the board shall hold office for four years and until his successor is appointed;

(3) Any member of the board shall be removed by the director for suspension or revocation of any license issued to him under this chapter. Vacancies in the membership of the board shall be filled by appointment by the director for the unexpired term;

(4) The board shall meet at the call of the director and consult with him on the issuance of any proposed rules and regulations for enforcing and carrying out the provisions and purposes of this chapter. The decision of the director, after such consultation, shall be final. The board is also authorized to conduct its own meetings at the call of its chairman;

(5) The board shall elect annually from its members a chairman, vice chairman and secretary;

(6) The board members shall be compensated pursuant to RCW 43.24.060 as now or hereafter amended;

(7) The board may inquire into the needs of the employment agency industry, and make such recommendations as may be deemed important and necessary for the welfare of the state, and progress of the employment agency industry, and how employment agencies may best serve the state and the public. In carrying out the foregoing, the board may collect such information and data as the board deems necessary. The board shall be responsible for the preparation of a written examination designed to demonstrate that the person who is to have the responsibility for the general management of the office has sufficient knowledge of the applicable laws and regulations relating to the operation of employment agencies, pertinent labor laws and laws against discrimination in employment in this state and of the United States. Members of the board shall be exempt from the examination requirement. [1977 1st ex.s. c 51 § 9; 1969 ex.s. c 228 § 20.]

19.31.245 Licensing prerequisite to suit by employment agency—Action against unlicensed employment agency. (1) No employment agency may bring or maintain a cause of action in any court of this state for compensation for, or seeking equitable relief in regard to, services rendered employers and applicants, unless such agency shall allege and prove that at the time of rendering the services in question, or making the contract

therefor, it was the holder of a valid license issued under this chapter.

(2) Any person who shall give consideration of any kind to any employment agency for the performance of employment services in this state when said employment agency shall not be the holder of a valid license issued under this chapter shall have a cause of action against the employment agency. Any court having jurisdiction may enter judgment therein for treble the amount of such consideration so paid, plus reasonable attorney's fees and costs. [1977 1st ex.s. c 51 § 10.]

Chapter 19.44 GRIST MILLS

Sections

19.44.010 through 19.44.050 Repealed. (Effective June 30, 1979.)

19.44.010 through 19.44.050 Repealed. (Effective June 30, 1979.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 19.86 UNFAIR BUSINESS PRACTICES—CONSUMER PROTECTION

Sections

19.86.170 Exempted actions or transactions—Stipulated penalties and remedies are exclusive.

19.86.170 Exempted actions or transactions—Stipulated penalties and remedies are exclusive. Nothing in this chapter shall apply to actions or transactions otherwise permitted, prohibited or regulated under laws administered by the insurance commissioner of this state, the Washington utilities and transportation commission, the federal power commission or actions or transactions permitted by any other regulatory body or officer acting under statutory authority of this state or the United States: *Provided, however,* That actions and transactions prohibited or regulated under the laws administered by the insurance commissioner shall be subject to the provisions of RCW 19.86.020 and all sections of chapter 216, Laws of 1961 and chapter 19.86 RCW which provide for the implementation and enforcement of RCW 19.86.020 except that nothing required or permitted to be done pursuant to Title 48 RCW shall be construed to be a violation of RCW 19.86.020: *Provided, further,* That actions or transactions specifically permitted within the statutory authority granted to any regulatory board or commission established within Title 18 RCW shall not be construed to be a violation of chapter 19.86 RCW: *Provided, further,* That this chapter shall apply to actions and transactions in connection with the disposition of human remains.

RCW 9A.20.010(2) shall not be applicable to the terms of this chapter and no penalty or remedy shall result from a violation of this chapter except as expressly

provided herein. [1977 c 49 § 1; 1974 ex.s. c 158 § 1; 1967 c 147 § 1; 1961 c 216 § 17.]

Chapter 19.94 WEIGHTS AND MEASURES—1969 ACT

Sections

19.94.190 Rules and regulations—Correct and incorrect apparatus.

19.94.190 Rules and regulations—Correct and incorrect apparatus. The director shall enforce the provisions of this chapter and shall issue from time to time reasonable rules and regulations for enforcing and carrying out the purposes of this chapter. Such rules and regulations shall have the effect of law and may include (1) standards of net weight, measure, or count, and reasonable standards of fill for any commodity in package form, (2) rules governing the technical and reporting procedures to be followed, and the report and record forms and marks of rejection to be used by the director and city sealers in the discharge of their official duties, (3) rules governing technical test procedures, reporting procedures, record and reporting forms to be used by commercial firms when installing, repairing or testing commercial weights or measures, (4) rules providing that all weights and measures used by commercial firms in repairing or servicing commercial weighing and measuring devices shall be calibrated by the department and be directly traceable to state standards and shall be submitted to the department for calibration and certification as necessary and/or at such reasonable intervals as may be established or required by the director, (5) exemptions from the sealing or marking requirements of RCW 19.94.250 with respect to weights and measures of such character or size that such sealing or marking would be inappropriate, impracticable, or damaging to the apparatus in question, (6) exemptions from the requirements of RCW 19.94.200 and 19.94.210 for testing, with respect to classes of weights and measures found to be of such character that periodic retesting is unnecessary to continued accuracy. These regulations shall include specifications, tolerances, and regulations for weights and measures of the character of those specified in RCW 19.94.210, designed to eliminate from use, without prejudice to apparatus that conforms as closely as practicable to the official standards, those (a) that are not accurate, (b) that are of such construction that they are faulty, that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly, or (c) that facilitate the perpetration of fraud. The specifications, tolerances, and regulations for commercial weighing and measuring devices, together with amendments thereto, as recommended by the national bureau of standards Handbook 44, third edition as published at the time of the enactment of this chapter shall be the specifications, tolerances, and regulations for commercial weighing and/or measuring devices of the state. To promote uniformity, any supplements or amendments to Handbook 44 or any similar subsequent publication of the national bureau of standards shall be

deemed to have been adopted under this section. The director may, however, within thirty days of the publication or effective date of Handbook 44 or any supplements, amendments, or similar publications give public notice that a hearing will be held to determine if such publications should not be applicable under this section. The hearing shall be conducted under chapter 34.04 RCW. For the purpose of this chapter, apparatus shall be deemed to be "correct" when it conforms to all applicable requirements promulgated as specified in this section; all other apparatus shall be deemed to be "incorrect" [1977 1st ex.s. c 26 § 5; 1969 c 67 § 19.]

Chapter 19.106

FINANCIAL INSTITUTIONS DISCLOSURE ACT

Sections

19.106.010	Short title.
19.106.020	Definitions.
19.106.030	Loan information statement—Required—Contents—Filing.
19.106.040	Verification of statements—Forms.
19.106.050	Availability of statements for public inspection—Copies.
19.106.060	Violations—Penalties.
19.106.070	Confidentiality of names of individual depositors or mortgagors.
19.106.080	Disclosure provisions exclusive—Other statutes, charter provisions, ordinances, etc. superseded.
19.106.900	Expiration of chapter.

Fairness in lending act: RCW 30.04.500–30.04.515.

Unfair practices of financial institutions: RCW 49.60.175.

19.106.010 Short title. This chapter shall be known and may be cited as the "Financial Institutions Disclosure Act". [1977 1st ex.s. c 301 § 1.]

19.106.020 Definitions. Unless the context clearly requires otherwise, the following terms when used in this chapter shall have the meanings ascribed to them in this section:

(1) "Application" means a written request for an extension of credit made in accordance with procedures established by a financial institution for the type of credit requested;

(2) "Default" means that a loan payment due on or before the first day of the month preceding the month in which the reporting period ends remains unpaid;

(3) "Financial institution" means any bank or trust company, mutual savings bank, savings and loan association or credit union which operates or has a place of business in this state whether or not regulated by the state or federal government and which has more than ten million dollars in assets, and any mortgage company which operates or has a place of business in this state;

(4) "Foreclosure" means the transfer of title as a result of foreclosure proceedings, a trustee's sale or the giving of a deed in lieu of foreclosure;

(5) "Home improvement loan" means a loan, unsecured or secured by collateral other than a first lien on residential real property, (a) the proceeds of which are to be used for the purpose of repairing, rehabilitating, or remodeling an existing residential dwelling, as stated by

the borrower to the financial institution at the time of the loan transaction, and (b) that is recorded on the books of the financial institution as a home improvement loan;

(6) "Neighborhood" means an area designated by a census tract, or where no area has been designated by a census tract, an area designated by a zip code;

(7) "Rejection" means a refusal to commit a loan to a person who has made an application, as defined above;

(8) "Single-family" means a residence consisting of from one to four dwelling units; and

(9) "Multifamily" means a residence consisting of more than four dwelling units. [1977 1st ex.s. c 301 § 2.]

19.106.030 Loan information statement—

Required—Contents—Filing. (1) Beginning on July 1, 1977, each financial institution with a home office or branch within a standard metropolitan statistical area shall file annually with the secretary of state, on or before a date of ninety days after the end of the fiscal year of the institution, for each neighborhood in which said financial institution has received, made, or rejected a loan application when such neighborhood lies wholly or partially within a standard metropolitan statistical area, a statement, for the loan categories designated in subsection (2) of this section, showing:

(a) The number and aggregate loan amount of owned loans closed subsequent to July 1, 1977, outstanding at the beginning and end of the reporting period: *Provided*, That this section shall not require reporting of loans closed prior to July 1, 1977;

(b) The number and aggregate loan amount of serviced loans closed subsequent to July 1, 1977, outstanding at the beginning and end of the reporting period: *Provided*, That this section shall not require reporting of loans closed prior to July 1, 1977;

(c) The number and aggregate dollar amount of applications processed and applications rejected during the reporting period;

(d) The number and amount of loans closed during the reporting period;

(e) The number of foreclosures for the reporting period;

(f) The number of loans in default for the reporting period.

(2) For each of the following loan categories, the information designated in subsection (1) (a) through (f) of this section shall be separately disclosed;

(a) Conventional single-family first mortgages with twenty or more percent down payment;

(b) Conventional single-family first mortgages with less than twenty percent down payment;

(c) Single-family mortgage loans guaranteed under the provisions of the federal Veterans' Benefits Act, Title 38, United States Code, chapter 37, subchapter II;

(d) Single-family mortgage loans insured under the federal National Housing Act, Title 12, United States Code, chapter 13;

(e) Single-family home improvement loans and loans made in accordance with subchapter I, "Housing Renovation and Modernization", of the National Housing Act, Title 12, United States Code, chapter 13;

(f) Other residential loans including multifamily dwelling loans. [1977 1st ex.s. c 301 § 3.]

19.106.040 Verification of statements—Forms. Each statement filed under the provisions of this chapter shall be verified by a certified public accountant or by two officers of the financial institution and shall be filed on forms promulgated by the secretary of state. Whenever possible, the secretary of state shall make the forms consistent with the disclosure forms required to be filed by financial institutions under the Federal Home Loan Mortgage Disclosure Act of 1975. [1977 1st ex.s. c 301 § 4.]

19.106.050 Availability of statements for public inspection—Copies. The secretary of state shall make statements filed under the provisions of this chapter available for public inspection during the regular business hours of his office, and shall provide copies of the statements to any interested person upon payment of a reasonable fee to cover the cost of copying. Each financial institution which has filed a statement shall make a copy of such statements available for public inspection during regular business hours in each office located in a standard metropolitan statistical area. [1977 1st ex.s. c 301 § 5.]

19.106.060 Violations—Penalties. (1) An institution which is required to file statements by this chapter and which fails to submit a statement on the date required in RCW 19.106.030, is guilty of a business offense and shall be fined five hundred dollars or one hundred dollars for each day on which the statement has not been filed after the required date, whichever is greater. The secretary of state shall refer any violation of this subsection to the attorney general for enforcement.

(2) Any person who files or participates in the filing of any statement required by this chapter with knowledge that such statement is false or misleading in any material regard is guilty of a gross misdemeanor pursuant to chapter 9A.20 RCW. [1977 1st ex.s. c 301 § 6.]

19.106.070 Confidentiality of names of individual depositors or mortgagors. To insure and protect the confidential nature of an individual's financial status, no provision of this chapter shall be construed as requiring any institution to divulge the names of individual depositors or mortgagors. [1977 1st ex.s. c 301 § 7.]

19.106.080 Disclosure provisions exclusive—Other statutes, charter provisions, ordinances, etc. superseded. The disclosure provisions of this chapter shall be exclusive and shall supersede all statutes, charter provisions, ordinances, resolutions, regulations, and requirements promulgated by the state or any political subdivision thereof. [1977 1st ex.s. c 301 § 8.]

19.106.900 Expiration of chapter. The provisions of this chapter shall expire on January 1, 1981. [1977 1st ex.s. c 301 § 9.]

Title 20

COMMISSION MERCHANTS— AGRICULTURAL PRODUCTS

Chapters

20.01 Agricultural products—Commission merchants, dealers, brokers, buyers, agents.

Chapter 20.01

AGRICULTURAL PRODUCTS—COMMISSION MERCHANTS, DEALERS, BROKERS, BUYERS, AGENTS

Sections

20.01.010	Definitions.
20.01.030	Exemptions.
20.01.060	Licensee in one class may obtain license in another—Additional fee.
20.01.080	Commission merchant's schedule of commissions and charges—Changes, posting.
20.01.086	Waiver of reporting, accounting, and record-keeping requirements prohibited.
20.01.210	Commission merchants, dealers—Bonds.
20.01.211	Alternative bonding provision for certain dealers.
20.01.212	Livestock dealers bonded under federal law.
20.01.330	Denial, revocation, suspension of licenses, probationary orders—Grounds.
20.01.370	Commission merchants records—Contents—Inspection—Pooling—Copy of record to be transmitted to consignor.
20.01.385	Failure to comply—Construction of transaction.
20.01.430	Commission merchant's remittance to consignor.
20.01.445	Standard contract format.
20.01.480	Violations resulting in improper or nonpayment—Charges.
20.01.500	"Grower", "processor" defined—Application of exemption contained in RCW 20.01.030(1).
20.01.550	Discrimination by processor.

20.01.010 Definitions. (1) "Director" means the director of agriculture or his duly authorized representative.

(2) "Person" means any natural person, firm, partnership, exchange, association, trustee, receiver, corporation, and any member, officer, or employee thereof or assignee for the benefit of creditors.

(3) "Agricultural product" means any horticultural, viticultural, berry, poultry, poultry product, grain including mint or mint oil processed by or for the producer thereof and hay and straw baled or prepared for market in any manner or form by or for the producer thereof, bee, or other agricultural products, and livestock except horses, mules, and donkeys: *Provided*, That horses, mules, and donkeys purchased or sold for slaughter shall be considered agricultural products for the purposes of this chapter.

(4) "Producer" means any person engaged in the business of growing or producing any agricultural product, whether as the owner of such products, or producing such products for others holding the title thereof.

(5) "Consignor" means any producer, person or his agent who sells, ships or delivers to any commission merchant, dealer, cash buyer, or agent, any agricultural product for processing, handling, sale or resale.

(6) "Commission merchant" means any person who shall receive on consignment for sale or processing and sale from the consignor thereof any agricultural product for sale on commission on behalf of such consignor, or who shall accept any farm product in trust from the consignor thereof for the purpose of resale, or who shall sell or offer for sale on commission any agricultural product, or who shall in any way handle for the account of or as an agent of the consignor thereof, any agricultural product.

(7) "Dealer" means any person other than a commission merchant or cash buyer, as defined in subsection (9) of this section, who solicits, contracts for, or obtains from the consignor thereof for reselling or processing, title, possession, or control of any agricultural product, or who buys or agrees to buy any agricultural product from the consignor thereof for sale or processing and includes any person, other than one who acts solely as a producer, who retains title in an agricultural product and delivers it to a producer for further production or increase: *Provided*, That for the purpose of this chapter the term dealer includes any person who purchases livestock on behalf of and for the account of another.

(8) "Broker" means any person other than a commission merchant, dealer, or cash buyer who negotiates the purchase or sale of any agricultural product: *Provided*, That no broker may handle the agricultural products involved or proceeds of such sale.

(9) "Cash buyer" means any person other than a commission merchant, dealer, or broker, who obtains from the consignor thereof for the purpose of resale or processing, title, possession or control of any agricultural product or who contracts for the title, possession or control of any agricultural product, or who buys or agrees to buy any agricultural product by paying to the consignor at the time of obtaining possession or control of any agricultural product the full agreed price of such agricultural product, in coin or currency, lawful money of the United States. However, a cashier's check, certified check or bankdraft may be used for such payment.

(10) "Agent" means any person who, on behalf of any commission merchant, dealer, broker, or cash buyer, acts as liaison between a consignor and a principal, or receives, contracts for, or solicits any agricultural product from the consignor thereof or who negotiates the consignment or purchase of any agricultural product on behalf of any commission merchant, dealer, broker, or cash buyer and who transacts all or a portion of such business at any location other than at the principal place of business of his employer: *Provided*, That, with the exception of an agent for a commission merchant or dealer handling horticultural products, an agent may operate only in the name of one principal and only to the account of said principal.

(11) "Retail merchant" means any person operating from a bona fide or established place of business selling agricultural products twelve months of each year: *Provided*, That any retailer may occasionally wholesale any agricultural product which he has in surplus; however, such wholesaling shall not be in excess of two percent of such retailer's gross business.

(12) "Fixed or established place of business" for the purpose of this chapter shall mean any permanent warehouse, building, or structure, at which necessary and appropriate equipment and fixtures are maintained for properly handling those agricultural products generally dealt in, and at which supplies of the agricultural products being usually transported are stored, offered for sale, sold, delivered and generally dealt in in quantities reasonably adequate for and usually carried for the requirements of such a business and which is recognized as a permanent business at such place, and carried on as such in good faith and not for the purpose of evading this chapter, and where specifically designated personnel are available to handle transactions concerning those agricultural products generally dealt in, said personnel being available during designated and appropriate hours to that business, and shall not mean a residence, barn, garage, tent, temporary stand or other temporary quarters, any railway car, or permanent quarters occupied pursuant to any temporary arrangement.

(13) "Processor" means any person, firm, company or other organization that purchases agricultural crops from a consignor and who cans, freezes, dries, dehydrates, cooks, presses, powders, or otherwise processes such crops in any manner whatsoever for eventual resale.

(14) "Pooling contract" means any written agreement whereby a consignor delivers a horticultural product to a commission merchant under terms whereby the commission merchant may commingle the consignor's horticultural products for sale with others similarly agreeing, which must include all of the following:

(a) A delivery receipt for the consignor which shall indicate the variety of horticultural product delivered, the number of containers, or the weight and tare thereof.

(b) Horticultural products received for handling and sale in the fresh market shall be accounted for to the consignor with individual pack-out records which shall include variety, grade, size and date of delivery. Individual daily packing summaries shall be available within forty-eight hours after packing occurs: *Provided*, That platform inspection shall be acceptable by mutual contract agreement on small deliveries to determine variety, grade, size and date of delivery.

(c) Terms under which the commission merchant may use his judgment in regard to the sale of the pooled horticultural product.

(d) The charges to be paid by the consignor as filed with the state of Washington.

(e) A provision that the consignor shall be paid for his pool contribution when the pool is in the process of being marketed in direct proportion, not less than eighty percent of his interest less expenses directly incurred, prior liens, and other advances on the growers crop unless otherwise mutually agreed upon between grower and commission merchant.

(15) "Date of sale" means the date agricultural products are delivered to the person buying such products. [1977 1st ex.s. c 304 § 1; 1974 ex.s. c 102 § 2; 1971 ex.s. c 182 § 1; 1967 c 240 § 40; 1963 c 232 § 1; 1959 c 139 § 1.]

20.01.030 Exemptions. This chapter does not apply to:

(1) Any cooperative marketing associations or federations incorporated under, or whose articles of incorporation and bylaws are equivalent to, the requirements of chapter 23.86 RCW or chapter 24.32 RCW, except as to that portion of the activities of such association or federation as involves the handling or dealing in the agricultural products of nonmembers of such organization: *Provided*, That such associations or federations may purchase up to fifteen percent of their gross from nonmembers for the purpose of filling orders: *Provided further*, That if such cooperative or association acts as a processor as defined in RCW 20.01.500(2) and markets such processed agricultural crops on behalf of the grower or its own behalf, said association or federation shall be subject to the provisions of RCW 20.01.500 through 20.01.560 and the license provision of this chapter excluding bonding provisions: *Provided further*, That none of the foregoing exemptions in this subsection shall apply to any such cooperative or federation dealing in or handling grain in any manner, and not licensed under the provisions of chapter 22.09 RCW.

(2) Any person who sells exclusively his own agricultural products as the producer thereof.

(3) Any public livestock market operating under a bond required by law or a bond required by the United States to secure the performance of such public livestock market's obligation.

(4) Any retail merchant having bona fide fixed or permanent place of business in this state.

(5) Any person buying farm products for his own use or consumption.

(6) Any warehouseman or grain dealer licensed under the state grain warehouse act.

(7) Any nurseryman who is required to be licensed under the horticultural laws of the state with respect to his operations as such licensee.

(8) Any person licensed under the now existing dairy laws of the state with respect to his operations as such licensee.

(9) Any producer who purchases less than fifteen percent of his volume to fill orders. [1977 1st ex.s. c 304 § 2; 1975 1st ex.s. c 7 § 18; 1971 ex.s. c 182 § 2; 1969 ex.s. c 132 § 1; 1967 c 240 § 41; 1959 c 139 § 3.]

20.01.060 Licensee in one class may obtain license in another—Additional fee. Any person licensed as a commission merchant, dealer, or broker, in the manner herein prescribed, may apply for and secure a license in any or all of the remaining such classifications upon payment of an additional fee of twenty-five dollars for each such additional classification. Such applicant shall further comply with those parts of this chapter regulating the licensing of the other particular classifications involved. [1977 1st ex.s. c 304 § 3; 1974 ex.s. c 102 § 4; 1971 ex.s. c 182 § 4; 1959 c 139 § 6.]

20.01.080 Commission merchant's schedule of commissions and charges—Changes, posting. Any person applying for a commission merchant's license shall include in his application a schedule of commissions,

together with an itemized list of all charges for services to be rendered to a consignor and shall post a copy of such charges on his premises in a conspicuous place where it is clearly visible and available to consignors. Such commissions and charges shall not be changed or varied for the license period except by written contract between the consignor or his agent and the licensee or thirty days after written notice to the director, and proper posting of such changes, as prescribed by the director, on the licensee's premises. Charges for services rendered and not listed on the schedule of commissions and charges filed with the director, or for increases in charges listed and filed which are directly caused by increases in labor rates or in cost of materials which occur after the signing of the contract by the grower, shall be rendered only on an actual cost to the licensee basis. [1977 1st ex.s. c 304 § 4; 1971 ex.s. c 182 § 5; 1959 c 139 § 8.]

20.01.086 Waiver of reporting, accounting, and record-keeping requirements prohibited. Except where specifically provided in this chapter, the reporting, accounting, and record-keeping requirements of this chapter, being matters of public interest, may not be waived by contract between the consignor and/or the commission merchant or dealer. [1977 1st ex.s. c 304 § 5; 1974 ex.s. c 102 § 8.]

20.01.210 Commission merchants, dealers—Bonds. Before the license is issued to any commission merchant and/or dealer the applicant shall execute and deliver to the director a surety bond executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety. Such bond shall be in the sum of seven thousand five hundred dollars for a commission merchant or any dealer handling livestock, hay, grain, or straw and a bond in the sum of three thousand dollars for any other dealer: *Provided*, That the bond for a commission merchant, a dealer acting as a processor, or a dealer in livestock, hay, grain, or straw shall be in a minimum amount of seven thousand five hundred dollars or more based upon the annual gross dollar volume of purchases by, or consignments to the licensee. The bond for any other dealer shall be in the minimum amount of three thousand dollars, or an increased amount based upon the annual gross dollar volume of purchases by, or consignments to, the licensee. The bond for such commission merchant or dealer shall be determined by taking the annual gross dollar volume of that commission merchant or dealer of net payment to growers and dividing that amount by fifty-two and the bond shall be in an amount to the next multiple of two thousand dollars larger than the sum: *Provided*, That the gross dollar volume used in computing the bond requirements of a commission merchant or dealer handling horticultural products shall be based on the net proceeds due to growers: *Provided further*, That bonds above twenty-six thousand dollars shall be not less than the next multiple of five thousand dollars above the amount secured by applying the formula except that when the bond amount reaches fifty thousand dollars any amount of bond required above this

shall be on a basis of ten percent of the amount arrived by applying the formula of annual gross divided by fifty-two. Such bond shall be of a standard form and approved by the director as to terms and conditions. Said bond shall be conditioned that the principal will not commit any fraudulent act and will comply with the provisions of this chapter and the rules and regulations adopted hereunder. Said bond shall be to the state for the benefit of every consignor of an agricultural product in this state. The total and aggregate liability of the surety for all claims upon the bond shall be limited to the face of such bond. Every bond filed with and approved by the director shall without the necessity of periodic renewal remain in force and effect until released by notice from the director when a superseding bond has been issued and is in effect. All such sureties on a bond, as provided herein, shall also be released and discharged from all liability to the state accruing on such bond by giving notice to the principal and the director by certified mail. Upon receipt of such notice the director shall notify the surety and the principal of the effective date of termination which shall be thirty days from the receipt of such notice by the director, but this shall not operate to relieve, release or discharge the surety from any liability already accrued or which shall accrue (due and to become due hereunder) before the expiration period provided for above. Unless the principal shall before the expiration of such period, file a new bond, the director shall forthwith cancel the principal's license. Upon such cancellation the license and vehicle plates issued attendant to the license shall be surrendered to the director forthwith. [1977 1st ex.s. c 304 § 6; 1974 ex.s. c 102 § 5; 1971 ex.s. c 182 § 8; 1963 c 232 § 5. Prior: 1959 c 139 § 21.]

Cash or other security in lieu of surety bond: RCW 20.01.570.

20.01.211 Alternative bonding provision for certain dealers. In lieu of the bonding provision required by RCW 20.01.210 as now or hereafter amended, any dealer who has not been found after a hearing to be in violation of this chapter during the two most recent years of such business operations may file a bond in an amount equal to such dealer's maximum monthly purchases, divided by thirty, and multiplied by the maximum number of days which will expire after the date of sale but before final payment is made: *Provided*, That the minimum bond provided by this section shall be in a minimum of three thousand dollars.

Any dealer utilizing the bonding provisions of this section shall file an affidavit with the director which sets forth the maximum monthly purchases of the dealer and the maximum number of days which will expire from the date of sale to the date final payment is made to consignors.

Any dealer bonded under this section who is found to be in violation of this chapter shall be required to comply with the bonding requirements of RCW 20.01.210 for a minimum of two years. [1977 1st ex.s. c 304 § 16.]

20.01.212 Livestock dealers bonded under federal law. If an applicant for a commission merchant's and/or

dealer's license is bonded as a livestock dealer or packer under the provisions of the Packers and Stockyards Act of 1921 (7 U.S.C. 181), as amended, on June 13, 1963, and acts as a commission merchant, packer, and/or a dealer only in livestock as defined in said Packers and Stockyards Act of 1921 (7 U.S.C. 181), the director may accept such bond in lieu of the bond required in RCW 20.01.210 as good and sufficient and issue the applicant a license limited solely to dealing in livestock. A dealer buying and selling livestock who has furnished a bond as required by the packers and stockyards administration to cover acting as order buyer as well as dealer may also act as an order buyer for others under the provisions of this chapter, and all persons who act as order buyers of livestock shall license under this chapter as a livestock dealer: *Provided*, That the applicant shall furnish the director with a bond approved by the United States secretary of agriculture. Such bond shall be in a minimum amount of seventy-five hundred dollars. It shall be a violation for the licensee to act as a commission merchant and/or dealer in any other agricultural commodity without first having notified the director and furnishing him with a bond as required under the provisions of RCW 20.01.210, and failure to furnish the director with such bond shall be cause for the immediate suspension of the licensee's license, and revocation subject to a hearing. [1977 1st ex.s. c 304 § 7; 1971 ex.s. c 182 § 9; 1963 c 232 § 6.]

20.01.330 Denial, revocation, suspension of licenses, probationary orders—Grounds. The director may refuse to grant a license or renew a license and may revoke or suspend a license or issue a conditional or probationary order if he is satisfied after a hearing, as herein provided, of the existence of any of the following facts, which are hereby declared to be a violation of this chapter:

(1) That fraudulent charges or returns have been made by the applicant, or licensee, for the handling, sale or storage of, or for rendering of any service in connection with the handling, sale or storage of any agricultural product.

(2) That the applicant, or licensee, has failed or refused to render a true account of sales, or to make a settlement thereon, or to pay for agricultural products received, within the time and in the manner required by this chapter.

(3) That the applicant, or licensee, has made any false statement as to the condition, quality or quantity of agricultural products received, handled, sold or stored by him.

(4) That the applicant, or licensee, directly or indirectly has purchased for his own account agricultural products received by him upon consignment without prior authority from the consignor together with the price fixed by consignor or without promptly notifying the consignor of such purchase. This shall not prevent any commission merchant from taking to account of sales, in order to close the day's business, miscellaneous lots or parcels of agricultural products remaining unsold, if such commission merchant shall forthwith enter such transaction on his account of sales.

(5) That the applicant, or licensee, has intentionally made any false or misleading statement as to the conditions of the market for any agricultural products.

(6) That the applicant, or licensee, has made fictitious sales or has been guilty of collusion to defraud the consignor.

(7) That a commission merchant to whom any consignment is made has reconsigned such consignment to another commission merchant and has received, collected, or charged by such means more than one commission for making the sale thereof, for the consignor, unless by written consent of such consignor.

(8) That the licensee was guilty of fraud or deception in the procurement of such license.

(9) That the licensee or applicant has failed or refused to file with the director a schedule of his charges for services in connection with agricultural products handled on account of or as an agent of another, or that the applicant, or licensee, has indulged in any unfair practice.

(10) That the licensee has rejected, without reasonable cause, or has failed or refused to accept, without reasonable cause, any agricultural product bought or contracted to be bought from a consignor by such licensee; or failed or refused, without reasonable cause, to furnish or provide boxes or other containers, or hauling, harvesting, or any other service contracted to be done by licensee in connection with the acceptance, harvesting, or other handling of said agricultural products bought or handled or contracted to be bought or handled; or has used any other device to avoid acceptance or unreasonably to defer acceptance of agricultural products bought or handled or contracted to be bought or handled.

(11) That the licensee has otherwise violated any provision of this chapter and/or rules and regulations adopted hereunder.

(12) That the licensee has knowingly employed an agent, as defined in this chapter, without causing said agent to comply with the licensing requirements of this chapter applicable to agents.

(13) That the applicant or licensee has, in the handling of any agricultural products, been guilty of fraud, deceit, or negligence.

(14) That the licensee has failed or refused, upon demand, to permit the director or his agents to make the investigations, examination or audits, as provided in this chapter, or that the licensee has removed or sequestered any books, records, or papers necessary to any such investigations, examination, or audits, or has otherwise obstructed the same.

(15) That the licensee, without reasonable cause, has failed or refused to execute or carry out a lawful contract with a consignor.

(16) That the licensee has failed or refused to keep and maintain the records as required by this chapter and/or rules and regulations adopted hereunder.

(17) That the licensee has attempted payment by check with insufficient funds to cover such check.

(18) That the licensee has been guilty of fraud or deception in his dealings with purchasers including misrepresentation of goods as to grade, quality, weights,

quantity, or any other essential fact in connection therewith.

(19) That the licensee has permitted an agent to in fact operate his own separate business under cover of the licensee's license and bond.

(20) That a commission merchant or dealer in livestock, hay, grain, or straw has failed to furnish additional bond coverage within fifteen days of when it was requested in writing by the director.

(21) That the licensee has discriminated in the licensee's dealings with consignors on the basis of race, creed, color, national origin, sex, or the presence of any sensory, mental, or physical handicap. [1977 1st ex.s. c 304 § 8; 1971 ex.s. c 182 § 11; 1959 c 139 § 33.]

20.01.370 Commission merchants records—Contents—Inspection—Pooling—Copy of record to be transmitted to consignor. Every commission merchant, before taking control of any agricultural products for sale as such commission merchant, shall utilize the standard contract format provided for in RCW 20.01-.445 as now or hereafter amended. The commission merchant shall promptly make and keep for a period of one year, beginning on the day the sale of the product is complete, a correct record showing in detail the following with reference to the handling, sale, or storage of such agricultural products:

(1) The name and address of the consignor.

(2) The date received.

(3) The quality and quantity delivered by the consignor, and where applicable the dockage, tare, grade, size, net weight, or quantity.

(4) Date of such sale for account of consignor.

(5) The terms of the sale.

(6) The terms of payment to the producer.

(7) An itemized statement of the charges to be paid by consignor in connection with the sale. Such charges shall be accounted for as a per unit charge based upon the same unit of measure for which the selling price of such product was charged.

(8) The names and addresses of all purchasers if said commission merchant has any financial interest in the business of said purchasers, or if said purchasers have any financial interest in the business of said commission merchant, directly or indirectly, as holder of the other's corporate stock, as copartner, as lender or borrower of money to or from the other, or otherwise. Such interest shall be noted in said records following the name of any such purchaser.

(9) A lot number or other identifying mark for each consignment, which number or mark shall appear on all sales tags and other essential records needed to show what the agricultural products actually sold for.

(10) Any claim or claims which have been or may be filed by the commission merchant against any person for overcharges or for damages resulting from the injury or deterioration of such agricultural products by the act, neglect or failure of such person and such records shall be open to the inspection of the director and the consignor of agricultural products for whom such claim or claims are made.

Where a pooling arrangement is agreed to in writing between the consignor and commission merchant, the reporting requirements of subsections (4), (5), (6), (7), and (9) of this section shall apply to the pool rather than to the individual consignor or consignment and the records of the pool shall be available for inspection by any consignor to that pool.

The commission merchant shall transmit a copy of the record required by this section to the consignor on the same day the final remittance is made to the consignor as required by RCW 20.01.430 as now or hereafter amended. [1977 1st ex.s. c 304 § 9; 1974 ex.s. c 102 § 6; 1963 c 232 § 3; 1959 c 139 § 37.]

20.01.385 Failure to comply—Construction of transaction. Whenever a commission merchant or dealer handling any agricultural products fails to carry out the provisions of RCW 20.01.370 as now or hereafter amended or RCW 20.01.380, whichever is applicable, it shall be prima facie evidence that the transaction involving the handling of any agricultural products between the consignor and the commission merchant or dealer was either a commission type transaction, or dealer transaction constituting an outright sale by the consignor, whichever is most favorable to the consignor. Such determination in favor of the consignor shall be based on the market price of the agricultural product in question at the time the complaint is filed against said commission merchant or dealer by the consignor: *Provided*, That if the return to the consignor is determined most favorably on a commission basis, the total commission shall not exceed ten percent, and all other charges for handling the agricultural product in question shall be figured on the basis of the actual cost of said handling. [1977 1st ex.s. c 304 § 10; 1974 ex.s. c 102 § 7; 1967 c 240 § 42.]

20.01.430 Commission merchant's remittance to consignor. Every commission merchant shall remit to the consignor of any agricultural product the full price for which such agricultural product was sold within thirty days of the date of sale, unless otherwise mutually agreed between grower and commission merchant. The remittance to the consignor shall include all collections, overcharges, and damages, less the agreed commission and other charges and advances, and a complete account of the sale. [1977 1st ex.s. c 304 § 11; 1974 ex.s. c 102 § 9; 1959 c 139 § 43.]

20.01.445 Standard contract format. The director, in accordance with the provisions of chapter 34.04 RCW and in conjunction with representatives of producers and commission merchants, shall develop a standard contract format for use in the sale or consignment of agricultural products to persons licensed as commission merchants pursuant to this chapter.

On and after the effective date of the rules and regulations establishing the standard contract format, the director or the supervisor of the appropriate division of the department of agriculture shall approve contracts for the sale or consignment of agricultural products to persons licensed as commission merchants pursuant to this

chapter to insure that such contracts are in the form and style required by the department's rules and regulations. [1977 1st ex.s. c 304 § 12; 1974 ex.s. c 102 § 10.]

20.01.480 Violations resulting in improper or non-payment—Charges. When a violation has occurred which results in improper payment or nonpayment and a claim is made to the department and the payment is secured through the actions of the department, the charges made to the consignor for the action of the department in the matter will depend upon the delay of reporting after such improper payment or nonpayment would normally become obvious to the consignor as follows:

- (1) When reported within thirty days, no charge.
- (2) When reported thirty days to one hundred eighty days, five percent.
- (3) When reported after one hundred eighty days, ten percent. [1977 1st ex.s. c 304 § 13; 1971 ex.s. c 182 § 14.]

20.01.500 "Grower", "processor" defined—Application of exemption contained in RCW 20.01.030(1). Notwithstanding any other provision of law, for the purposes of RCW 20.01.510 through 20.01-.550 the term "grower" and the term "processor" shall have the meanings ascribed thereto by this section:

(1) "Grower" means any person, firm, company, or other organization that is engaged in the production of agricultural crops which must be planted, cultivated, and harvested within a twelve month period.

(2) (a) "Processor" means any person, firm, company, or other organization that purchases agricultural crops from a grower and who cans, freezes, dries, dehydrates, cooks, presses, powders, or otherwise processes such crops in any manner whatsoever for eventual resale.

(b) The exemption provided for in RCW 20.01.030(1) shall not apply to a cooperative or association as defined therein, which acts as a processor defined herein, and markets such agricultural crops on behalf of the grower or on its own behalf. [1977 1st ex.s. c 304 § 14; 1971 ex.s. c 182 § 15.]

20.01.550 Discrimination by processor. Any processor who discriminates between growers with whom he contracts as to price, conditions for production, harvesting, and delivery of crops which is not supportable by economic cost factors shall be in violation of this chapter and the director may subsequent to a hearing deny, suspend, or revoke such processor's license to act as a dealer. [1977 1st ex.s. c 304 § 15; 1971 ex.s. c 182 § 20.]

Title 21

SECURITIES AND INVESTMENTS

Chapters

21.20 Securities act of Washington.

Chapter 21.20
SECURITIES ACT OF WASHINGTON

Sections	
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21.20.340	Fees—Disposition (as amended by 1977 1st ex.s. c 188).
21.20.430	Civil liabilities—Survival, limitation of actions— Waiver of chapter void.

21.20.005 Definitions. The definitions set forth in this section shall apply throughout this chapter, unless the context otherwise requires:

(1) "Director" means the **director of motor vehicles of this state.

(2) "Salesman" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect sales of securities, but "salesman" does not include an individual who represents an issuer in (a) effecting a transaction in a security exempted by RCW 21.20.310(1), (2), (3), (4), (9), (10), or *(11), as now or hereafter amended, (b) effecting transactions exempted by RCW 21.20.320, or (c) effecting transactions with existing employees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state.

(3) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. "Broker-dealer" does not include (a) a salesman, issuer, bank, savings institution, or trust company, (b) a person who has no place of business in this state if he effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the investment company act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (c) a person who has no place of business in this state if during any period of twelve consecutive months he does not direct more than fifteen offers to sell or to buy into this state in any manner to persons other than those specified in subsection (b) above.

(4) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends.

(5) "Full business day" means all calendar days, excluding therefrom Saturdays, Sundays, and all legal holidays, as defined by statute.

(6) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to

the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" does not include (a) a bank, savings institution, or trust company, (b) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession, (c) a broker-dealer, (d) a publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation, (e) a person whose advice, analyses, or reports relate only to securities exempted by RCW 21.20.310(1), (f) a person who has no place of business in this state if (i) his only clients in this state are other investment advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the investment company act of 1940, pension or profit-sharing trust, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (ii) during any period of twelve consecutive months he does not direct business communications into this state in any manner to more than five clients other than those specified in clause (i) above, or (g) such other persons not within the intent of this paragraph as the director may by rule or order designate.

(7) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type; the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued.

(8) "Nonissuer" means not directly or indirectly for the benefit of the issuer.

(9) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interest of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(10) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value. "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same

or another issuer, is considered to include an offer of the other security.

(11) "Securities Act of 1933", "Securities Exchange Act of 1934", "Public Utility Holding Company Act of 1935", and "Investment Company Act of 1940" means the federal statutes of those names as amended before or after June 10, 1959.

(12) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting-trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease; or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing; or any sale of or indenture, bond or contract for the conveyance of land or any interest therein where such land is situated outside of the state of Washington and such sale or its offering is not conducted by a real estate broker licensed by the state of Washington. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or some other specified period.

(13) "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico.

(14) "Investment adviser salesman" means a person retained or employed by an investment adviser to solicit clients or offer the services of the investment adviser or manage the accounts of said clients.

(15) "Relatives", as used in *RCW 21.20.310(11) as now or hereafter amended, shall include:

- (a) A member's spouse;
- (b) Grandparents of the member or the member's spouse;
- (c) Natural or adopted children of the member or the member's spouse;
- (d) Aunts and uncles of the member or the member's spouse; and
- (e) First cousins of the member or the member's spouse. [1977 1st ex.s. c 188 § 1; 1975 1st ex.s. c 84 § 1; 1967 c 199 § 1; 1961 c 37 § 1; 1959 c 282 § 60.]

Reviser's note: *(1) RCW 21.20.310 was amended during the 1977 first extraordinary session of the legislature by 1977 1st ex.s. c 188 and also by 1977 1st ex.s. c 172. The internal references to subsection (11) of RCW 21.20.310 apparently refer to that section as amended by 1977 1st ex.s. c 188 § 2.

***(2) The "director of motor vehicles" was redesignated the "director of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

21.20.310 Securities exempt from registration (as amended by 1977 1st ex.s. c 172). RCW 21.20.140 through 21.20.300, inclusive, shall not apply to any of the following securities:

(1) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one or more of the foregoing; or any certificate of deposit for any of the foregoing; but this exemption shall not include any security payable solely from revenues to be received from a nongovernmental industrial or

commercial enterprise unless such payments shall be made or unconditionally guaranteed by a person whose securities are exempt from registration by subsections (7) or (8) of this section.

(2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations; but this exemption shall not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise unless such payments shall be made or unconditionally guaranteed by a person whose securities are exempt from registration by subsections (7) or (8) of this section.

(3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank or trust company organized or supervised under the laws of any state.

(4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any building and loan or similar association organized under the laws of any state and authorized to do business in this state.

(5) Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of this state and authorized to do and actually doing business in this state.

(6) Any security issued or guaranteed by any federal credit union or any credit union, industrial loan association, or similar association organized and supervised under the laws of this state.

(7) Any security issued or guaranteed by any railroad, other common carrier, public utility, or holding company which is (a) subject to the jurisdiction of the interstate commerce commission; (b) a registered holding company under the public utility holding company act of 1935 or a subsidiary of such a company within the meaning of that act; (c) regulated in respect of its rates and charges by a governmental authority of the United States or any state or municipality; or (d) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada, or any Canadian province; also equipment trust certificates in respect of equipment conditionally sold or leased to a railroad or public utility, if other securities issued by such railroad or public utility would be exempt under this subsection.

(8) Any security listed or approved for listing upon notice of issuance on the New York stock exchange, the American stock exchange, the Midwest stock exchange, the Spokane stock exchange or any other stock exchange registered with the federal securities and exchange commission and approved by the director; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing. The director shall have power at any time by written order to withdraw the exemption so granted as to any particular security.

(9) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transaction, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal, when such commercial paper is sold to the banks or insurance companies.

(10) Any investment contract issued in connection with an employee's stock purchase, savings, pension, profit-sharing, or similar benefit plan if the director is notified in writing thirty days before the inception of the plan or, with respect to plans which are in effect on the *effective date of this chapter, within sixty days thereafter (or within thirty days before they are reopened if they are closed on the effective date of this chapter). [1977 1st ex.s. c 172 § 1; 1975 1st ex.s. c 84 § 16; 1959 c 282 § 31.]

***Reviser's note:** The "effective date of this chapter" [1959 c 282] was midnight June 10, 1959, see preface 1959 session laws.

21.20.310 Securities exempt from registration (as amended by 1977 1st ex.s. c 188). RCW 21.20.140 through 21.20.300, inclusive, shall not apply to any of the following securities:

(1) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one or more of the foregoing; or any certificate of deposit for any of the foregoing.

(2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor.

(3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank or trust company organized or supervised under the laws of any state.

(4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any building and loan or similar association organized under the laws of any state and authorized to do business in this state.

(5) Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of this state and authorized to do and actually doing business in this state.

(6) Any security issued or guaranteed by any federal credit union or any credit union, industrial loan association, or similar association organized and supervised under the laws of this state.

(7) Any security issued or guaranteed by any railroad, other common carrier, public utility, or holding company which is (a) subject to the jurisdiction of the interstate commerce commission; (b) a registered holding company under the public utility holding company act of 1935 or a subsidiary of such a company within the meaning of that act; (c) regulated in respect of its rates and charges by a governmental authority of the United States or any state or municipality; or (d) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada, or any Canadian province; also equipment trust certificates in respect of equipment conditionally sold or leased to a railroad or public utility, if other securities issued by such railroad or public utility would be exempt under this subsection.

(8) Any security listed or approved for listing upon notice of issuance on the New York stock exchange, the American stock exchange, the Midwest stock exchange, the Spokane stock exchange or any other stock exchange registered with the federal securities and exchange commission and approved by the director; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing. The director shall have power at any time by written order to withdraw the exemption so granted as to any particular security.

(9) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transaction, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal, when such commercial paper is sold to the banks or insurance companies.

(10) Any investment contract issued in connection with an employee's stock purchase, savings, pension, profit-sharing, or similar benefit plan if the director is notified in writing thirty days before the inception of the plan or, with respect to plans which are in effect on June 10, 1959, within sixty days thereafter (or within thirty days before they are reopened if they are closed on June 10, 1959).

(11) Any security issued by any person organized and operated as a nonprofit organization as defined in RCW 84.36.800(4) exclusively for religious, educational, and charitable purposes and which nonprofit organization also possesses a current tax exempt status under the laws of the United States, which security is offered or sold only to persons who, prior to their solicitation for the purchase of said securities, were members of, contributors to, or listed as participants in, the organization, or their relatives, if such nonprofit organization first files a notice specifying the terms of the offering and the director does not by order disallow the exemption within the next ten full business days: *Provided*, That no offerings shall be made until expiration of the ten full business days. Every such nonprofit organization which files a notice of exemption of such securities shall pay a filing fee as set forth in RCW 21.20.340(12) as now or hereafter amended.

The notice shall consist of the following:

- (a) The name and address of the issuer;
- (b) The names, addresses, and telephone numbers of the current officers and directors of the issuer;
- (c) A short description of the security, price per security, and the number of securities to be offered;

(d) A statement of the nature and purposes of the organization as a basis for the exemption under this section;

(e) A statement of the proposed use of the proceeds of the sale of the security; and

(f) A statement that the issuer shall provide to a prospective purchaser written information regarding the securities offered prior to consummation of any sale, which information shall include the following statements: (i) "ANY PROSPECTIVE PURCHASER IS ENTITLED TO REVIEW FINANCIAL STATEMENTS OF THE ISSUER WHICH SHALL BE FURNISHED UPON REQUEST."; (ii) "RECEIPT OF NOTICE OF EXEMPTION BY THE WASHINGTON ADMINISTRATOR OF SECURITIES DOES NOT SIGNIFY THAT THE ADMINISTRATOR HAS APPROVED OR RECOMMENDED THESE SECURITIES, NOR HAS THE ADMINISTRATOR PASSED UPON THE OFFERING. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE."; and (iii) "THE RETURN OF THE FUNDS OF THE PURCHASER IS DEPENDENT UPON THE FINANCIAL CONDITION OF THE ORGANIZATION." [1977 1st ex.s. c 188 § 2; 1975 1st ex.s. c 84 § 16; 1959 c 282 § 31.]

Reviser's note: RCW 21.20.310 was amended twice during the 1977 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

21.20.320 Exempt transactions—Denial, revocation of certain exemptions. Except as hereinafter in this section expressly provided, RCW 21.20.040, 21.20.050, 21.20.060, 21.20.070, 21.20.080, 21.20.090, 21.20.100, 21.20.110, 21.20.120, 21.20.130, 21.20.135, 21.20.140, 21.20.180, 21.20.190, 21.20.200, 21.20.210, 21.20.220, 21.20.230, 21.20.240, 21.20.250, 21.20.260, 21.20.270, 21.20.280, 21.20.290 and 21.20.300, shall not apply to any of the following transactions:

(1) Any isolated transaction, or sales not involving a public offering, whether effected through a broker-dealer or not; or any transaction effected in accordance with any rule by the director establishing a nonpublic offering exemption pursuant to this subsection where registration is not necessary or appropriate in the public interest or for the protection of investors. Every person filing notification of claim of this exemption in accordance with any rule by the director shall pay a filing fee as set forth in *RCW 21.20.340(11).

(2) Any nonissuer distribution of an outstanding security by a registered broker-dealer if (a) a recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within eighteen months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, or (b) the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years, or during the existence of the issuer and any predecessors if less than three years, in the payment of principal, interest, or dividends on the security.

(3) Any nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy; but the director may by rule require that the customer acknowledge upon a specified form that the sale was unsolicited, and that a signed copy of each such form be preserved by the broker-dealer for a specified period.

(4) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters.

(5) Any transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit.

(6) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator.

(7) Any transaction executed by a bona fide pledgee without any purpose of evading this chapter.

(8) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity.

(9) Any transaction pursuant to limited offers and sales by closely-held issuers effected in accordance with any rule by the director establishing a limited offering exemption pursuant to this subsection where there is no general or public advertising or solicitation and no commission or other remuneration is paid or given directly or indirectly in connection with sales of securities. Every person filing notification of claim of this exemption in accordance with any rule by the director shall pay a filing fee as set forth in *RCW 21.20.340(11).

(10) Any offer or sale of a preorganization certificate or subscription if (a) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber, (b) the number of subscribers does not exceed ten, and (c) no payment is made by any subscriber.

(11) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than ninety days of their issuance, if (a) no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this state, or (b) the issuer first files a notice specifying the terms of the offer and the director does not by order disallow the exemption within the next five full business days.

(12) Any offer (but not a sale) of a security for which registration statements have been filed under both this chapter and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either act.

(13) The issuance of any stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the distribution other than the surrender of a right to a cash dividend where the stockholder can elect to take a dividend in cash or stock.

(14) Any transaction incident to a right of conversion or a statutory or judicially approved reclassification, recapitalization, reorganization, quasi reorganization, stock split, reverse stock split, merger, consolidation or sale of assets.

(15) The offer or sale by a registered broker-dealer, or a person exempted from the registration requirements pursuant to RCW 21.20.040, acting either as principal or agent, of securities previously sold and distributed to the public: *Provided, That:*

(a) Such securities are sold at prices reasonably related to the current market price thereof at the time of sale, and, if such broker-dealer is acting as agent, the commission collected by such broker-dealer on account of the sale thereof is not in excess of usual and customary commissions collected with respect to securities and transactions having comparable characteristics;

(b) Such securities do not constitute the whole or a part of an unsold allotment to or subscription or participation by such broker-dealer as an underwriter of such securities or as a participant in the distribution of such securities by the issuer, by an underwriter or by a person or group of persons in substantial control of the issuer or of the outstanding securities of the class being distributed; and

(c) The security has been lawfully sold and distributed in this state or any other state of the United States under this or any act regulating the sale of such securities.

(16) Any transactions by a mutual or cooperative association issuing to its patrons any receipt, written notice, certificate of indebtedness or stock for a patronage dividend, or for contributions to capital by such patrons in the association provided that any such receipt, written notice or certificate made pursuant to this paragraph shall be nontransferable except in the case of death or by operation of law and shall so state conspicuously on its face.

The director may by order deny or revoke the exemption specified in subsection (2) of this section with respect to a specific security. Upon the entry of such an order, the director shall promptly notify all registered broker-dealers that it has been entered and of the reasons therefor and that within fifteen days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the director, the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, after notice of an opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination. No order under this subsection may operate retroactively. No person may be considered to have violated this chapter by reason of any offer or sale effected after the entry of an order under this subsection if he sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known of the order. In any proceeding under this chapter, the burden of proving an exemption from a definition is upon the person claiming it. [1977 1st ex.s. c 172 § 2; 1975 1st ex.s. c 84 § 17; 1974 ex.s. c 77 § 6; 1972 ex.s. c 79 § 1; 1961 c 37 § 8; 1959 c 282 § 32.]

***Reviser's note:** RCW 21.20.340 was amended during the 1977 first extraordinary session by 1977 1st ex.s. c 172 and also by 1977 1st ex.s. c 188. The internal references to subsection (11) of RCW 21.20.340 apparently refer to that section as amended by 1977 1st ex.s. c 172 § 3.

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

21.20.325 Denial, revocation, condition, of exemptions—Authority—Procedure. The director or administrator may by order deny, revoke, or condition any exemption specified in subsections (10) or *(11) of RCW 21.20.310 or in RCW 21.20.320, as now or hereafter amended, with respect to a specific security or transaction. No such order may be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and conclusions of law, except that the director or administrator may by order summarily deny, revoke, or condition any of the specified exemptions pending final determination of any proceeding under this section. Upon the entry of a summary order, the director or administrator shall promptly notify all interested parties that it has been entered and of the reasons therefor and that within fifteen days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the director or administrator, the order will remain in effect until it is modified or vacated by the director or administrator. If a hearing is requested or ordered, the director or administrator, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination. No order under this section may operate retroactively. No person may be considered to have violated RCW 21.20.140 as now or hereafter amended by reason of any offer or sale effected after the entry of an order under this section if he sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the order. [1977 1st ex.s. c 188 § 3; 1975 1st ex.s. c 84 § 18; 1974 ex.s. c 77 § 7; 1967 c 199 § 3.]

***Reviser's note:** RCW 21.20.310 was amended during the 1977 first extraordinary session by 1977 1st ex.s. c 188 and also by 1977 1st ex.s. c 172. The internal reference to subsection (11) of RCW 21.20.310 apparently refers to that section as amended by 1977 1st ex.s. c 188 § 2.

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

21.20.340 Fees—Disposition (as amended by 1977 1st ex.s. c 172). The following fees shall be paid in advance under the provisions of this chapter:

(1) For registration of all securities other than investment trusts and securities registered by coordination the fee shall be one hundred dollars for the first one hundred thousand dollars of initial issue, or portion thereof in this state, based on offering price, plus one-twentieth of one percent for any excess over one hundred thousand dollars which are to be offered during that year: *Provided, however,* That an issuer may upon the payment of a fifty dollar fee renew for one additional twelve month period only the unsold portion for which the registration fee has been paid.

(2) For registration of securities issued by a face-amount certificate company or redeemable security issued by an open-end management company or unit investment trust, as those terms are defined in the Investment Company Act of 1940, the fee shall be one hundred dollars

for the first one hundred thousand dollars of initial issue, or portion thereof in this state, based on offering price, plus one-twentieth of one percent for any excess over one hundred thousand dollars which are to be offered in this state during that year: *Provided, however,* That an issuer may upon the payment of a fifty dollar fee renew for an additional twelve month period the unsold portion for which the registration fee has been paid.

(3) For registration by coordination, other than investment trusts, the fee shall be one hundred dollars for initial filing fee for the first twelve month period plus one hundred dollars for each additional twelve months in which the same offering is continued.

(4) For filing annual financial statements, the fee shall be twenty-five dollars.

(5) For filing an amended offering circular after the initial registration permit has been granted the fee shall be ten dollars.

(6) For registration of a broker-dealer or investment adviser, the fee shall be one hundred fifty dollars for original registration and fifty dollars for each annual renewal. When an application is denied or withdrawn the director shall retain one-half of the fee.

(7) For registration of a salesman or investment adviser salesman, the fee shall be twenty-five dollars for original registration with each employer and fifteen dollars for each annual renewal. When an application is denied or withdrawn the director shall retain one-half of the fee.

(8) For written examination for registration as a salesman or investment adviser salesman, the fee shall be fifteen dollars. For examinations for registration as a broker-dealer or investment adviser, the fee shall be fifty dollars.

(9) If the application for a renewal license is not received by the department on or before March 5 of each year the renewal license fee for a late license for a broker-dealer or an investment adviser shall be one hundred dollars and for a salesman or investment adviser salesman shall be twenty-five dollars. Acceptance by the director of an application for renewal after March 5 shall not be a waiver of delinquency.

(10) (a) For the transfer of a broker-dealer license to a successor, the fee shall be twenty-five dollars.

(b) For the transfer of a salesman from a broker-dealer or issuer to another broker-dealer or issuer, the transfer fee shall be fifteen dollars.

(c) For the transfer of an investment adviser salesman from an investment adviser to another investment adviser, the transfer fee shall be fifteen dollars.

(d) For the transfer of an investment adviser license to a successor, the fee shall be twenty-five dollars.

(11) For the filing of notification of claim of exemption from registration pursuant to RCW 21.20.320(1), the fee shall be three hundred dollars for each filing. For the filing of notification of claim of exemption pursuant to RCW 21.20.320(9), the fee shall be fifty dollars for each filing.

(12) For rendering interpretative opinions, the fee shall be thirty-five dollars.

(13) For certified copies of any documents filed with the director, the fee shall be the cost to the department.

All fees collected under this chapter shall be turned in to the state treasury and shall not be refundable, except as herein provided. [1977 1st ex.s. c 172 § 3; 1975 1st ex.s. c 84 § 20; 1974 ex.s. c 77 § 8; 1965 c 17 § 4; 1961 c 37 § 9; 1959 c 282 § 34.]

21.20.340 Fees—Disposition (as amended by 1977 1st ex.s. c 188). The following fees shall be paid in advance under the provisions of this chapter:

(1) For registration of all securities other than investment trusts and securities registered by coordination the fee shall be one hundred dollars for the first one hundred thousand dollars of initial issue, or portion thereof in this state, based on offering price, plus one-twentieth of one percent for any excess over one hundred thousand dollars which are to be offered during that year: *Provided, however,* That an issuer may upon the payment of a fifty dollar fee renew for one additional twelve month period only the unsold portion for which the registration fee has been paid.

(2) For registration of securities issued by a face-amount certificate company or redeemable security issued by an open-end management company or unit investment trust, as those terms are defined in the Investment Company Act of 1940, the fee shall be one hundred dollars for the first one hundred thousand dollars of initial issue, or portion thereof in this state, based on offering price, plus one-twentieth of one percent for any excess over one hundred thousand dollars which are to

be offered in this state during that year: *Provided, however*, That an issuer may upon the payment of a fifty dollar fee renew for an additional twelve month period the unsold portion for which the registration fee has been paid.

(3) For registration by coordination, other than investment trusts, the fee shall be one hundred dollars for initial filing fee for the first twelve month period plus one hundred dollars for each additional twelve months in which the same offering is continued.

(4) For filing annual financial statements, the fee shall be twenty-five dollars.

(5) For filing an amended offering circular after the initial registration permit has been granted the fee shall be ten dollars.

(6) For registration of a broker-dealer or investment adviser, the fee shall be one hundred fifty dollars for original registration and fifty dollars for each annual renewal. When an application is denied or withdrawn the director shall retain one-half of the fee.

(7) For registration of a salesman or investment adviser salesman, the fee shall be twenty-five dollars for original registration with each employer and fifteen dollars for each annual renewal. When an application is denied or withdrawn the director shall retain one-half of the fee.

(8) For written examination for registration as a salesman or investment adviser salesman, the fee shall be fifteen dollars. For examinations for registration as a broker-dealer or investment adviser, the fee shall be fifty dollars.

(9) If the application for a renewal license is not received by the department on or before March 5 of each year the renewal license fee for a late license for a broker-dealer or an investment adviser shall be one hundred dollars and for a salesman or investment adviser salesman shall be twenty-five dollars. Acceptance by the director of an application for renewal after March 5 shall not be a waiver of delinquency.

(10) (a) For the transfer of a broker-dealer license to a successor, the fee shall be twenty-five dollars.

(b) For the transfer of a salesman from a broker-dealer or issuer to another broker-dealer or issuer, the transfer fee shall be fifteen dollars.

(c) For the transfer of an investment adviser salesman from an investment adviser to another investment adviser, the transfer fee shall be fifteen dollars.

(11) For certified copies of any documents filed with the director, the fee shall be the cost to the department.

(12) For filing of notification of claim of exemption from registration pursuant to *RCW 21.20.310(11), as now or hereafter amended, the fee shall be fifty dollars for each filing.

(13) All fees collected under this chapter shall be turned in to the state treasury and shall not be refundable, except as herein provided. [1977 1st ex.s. c 188 § 4; 1975 1st ex.s. c 84 § 20; 1974 ex.s. c 77 § 8; 1965 c 17 § 4; 1961 c 37 § 9; 1959 c 282 § 34.]

Reviser's note: (1) RCW 21.20.340 was amended twice during the 1977 first extraordinary session, each without reference to the other. For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

* (2) The internal reference to subsection (11) of RCW 21.20.310 apparently refers to that section as amended by 1977 1st ex.s. c 188 § 2. RCW 21.20.310 was also amended by 1977 1st ex.s. c 172.

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

Effective date—1965 c 17: "Section 4 of this amendatory act shall take effect July 1, 1965." [1965 c 17 § 6.]

21.20.430 Civil liabilities—Survival, limitation of actions—Waiver of chapter void. (1) Any person, who offers or sells a security in violation of any provisions of RCW 21.20.010 or 21.20.140 through 21.20.230, is liable to the person buying the security from him, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at eight percent per annum from the date of payment, costs, and reasonable attorneys' fees, less the amount of any income received on the security, upon the tender of the security, or for damages if he no longer owns the security. Damages are the amount that would be recoverable upon a tender less (a) the value of the security when the

buyer disposed of it and (b) interest at eight percent per annum from the date of disposition.

(2) Any person who buys a security in violation of the provisions of RCW 21.20.010 is liable to the person selling the security to him, who may sue either at law or in equity to recover the security, together with any income received on the security, upon tender of the consideration received, costs, and reasonable attorneys' fees, or if the security cannot be recovered, for damages. Damages are the value of the security when the buyer disposed of it, and any income received on the security, less the consideration received for the security, plus interest at eight percent per annum from the date of disposition, costs, and reasonable attorneys' fees.

(3) Every person who directly or indirectly controls a seller or buyer liable under subsection (1) or (2) above, every partner, officer, director or person who occupies a similar status or performs a similar function of such seller or buyer, every employee of such a seller or buyer who materially aids in the transaction, and every broker-dealer, salesman or person exempt under the provisions of RCW 21.20.040 who materially aids in the transaction is also liable jointly and severally with and to the same extent as the seller or buyer, unless such person sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. There is contribution as in cases of contract among the several persons so liable.

(4) (a) Every cause of action under this statute survives the death of any person who might have been a plaintiff or defendant.

(b) No person may sue under this section more than three years after the contract of sale for any violation of the provisions of RCW 21.20.140 through 21.20.230, or more than three years after a violation of the provisions of RCW 21.20.010, either was discovered by such person or would have been discovered by him in the exercise of reasonable care. No person may sue under this section if the buyer or seller receives a written rescission offer, which has been passed upon by the director before suit and at a time when he owned the security, to refund the consideration paid together with interest at eight percent per annum from the date of payment, less the amount of any income received on the security in the case of a buyer, or plus the amount of income received on the security in the case of a seller.

(5) No person who has made or engaged in the performance of any contract in violation of any provision of this chapter or any rule or order hereunder, or who has acquired any purported right under any such contract with knowledge of the facts by reason of which its making or performance was in violation, may base any suit on the contract. Any condition, stipulation, or provision binding any person acquiring any security to waive compliance with any provision of this chapter or any rule or order hereunder is void.

(6) Any tender specified in this section may be made at any time before entry of judgment. [1977 1st ex.s. c 172 § 4; 1975 1st ex.s. c 84 § 24; 1974 ex.s. c 77 § 11; 1967 c 199 § 2; 1959 c 282 § 43.]

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

Title 23A
WASHINGTON BUSINESS CORPORATION
ACT

Chapters

23A.08	Substantive provisions.
23A.12	Formation of corporations.
23A.16	Amendment.
23A.20	Merger and consolidation.
23A.28	Dissolution.
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Chapter 23A.08

SUBSTANTIVE PROVISIONS

Sections

23A.08.100	Change of registered office or registered agent.
23A.08.130	Issuance of shares of preferred or special classes in series.
23A.08.480	Annual report—Contents—Filing—Compliance—Violation—Penalty.

23A.08.100 Change of registered office or registered agent. A corporation may change its registered office or change its registered agent or both, by executing and filing in the manner hereinafter provided 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 business 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.
- (8) The date such change is to become effective.

Such statement shall be executed in duplicate by the corporation by its president or a vice-president, and verified by him and delivered to the secretary of state on or before the date such change is to become effective. If the secretary of state finds that such statement conforms to the provisions of this title he shall endorse on each of such duplicate originals the word "Filed," and the month, day, and year of the filing thereof, file one original in his office, and return the other original to the corporation or its representative.

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 one copy thereof to the corporation or its representative. The appointment of such agent shall terminate upon the expiration of thirty days after receipt

of such notice by the secretary of state. [1977 1st ex.s. c 193 § 1; 1967 c 190 § 1; 1965 c 53 § 13.]

Change of registered office or registered agent of foreign corporation: RCW 23A.32.090.

Involuntary dissolution—Failure to file statement of change of registered office or registered agent: RCW 23A.28.130.

23A.08.130 Issuance of shares of preferred or special classes in series. (1) If the articles of incorporation so provide, the shares of any preferred or special class may be divided into and issued in series. If the shares of any such class are to be issued in series, then each series shall be so designated as to distinguish the shares thereof from the shares of all other series and classes. Any or all of the series of any such class and the variations in the relative rights and preferences as between different series may be fixed and determined by the articles of incorporation, but all shares of the same class shall be identical except as to the following relative rights and preferences, as to which there may be variations between different series:

- (a) The rate of dividend.
 - (b) Whether shares may be redeemed and, if so, the redemption price and the terms and conditions of redemption.
 - (c) The amount payable upon shares in event of voluntary and involuntary liquidation.
 - (d) Sinking fund provisions, if any, for the redemption or purchase of shares.
 - (e) The terms and conditions, if any, on which shares may be converted.
 - (f) Voting rights, if any.
- (2) If the articles of incorporation shall expressly vest authority in the board of directors, then, to the extent that the articles of incorporation shall not have established series and fixed and determined the variations in the relative rights and preferences as between series, the board of directors shall have authority to divide any or all of such classes into series and, within the limitations set forth in this section and in the articles of incorporation, fix and determine the relative rights and preferences of the shares of any series so established.

(3) In order for the board of directors to establish a series, where authority so to do is contained in the articles of incorporation, the board of directors shall adopt a resolution setting forth the designation of the series and fixing and determining the relative rights and preferences thereof, or so much thereof as shall not be fixed and determined by the articles of incorporation.

(4) Prior to the issue of any shares of a series established by resolution adopted by the board of directors, the corporation shall file and execute in the manner hereinafter provided a statement setting forth:

- (a) The name of the corporation.
- (b) A copy of the resolution establishing and designating the series, and fixing and determining the relative rights and preferences thereof.
- (c) The date of adoption of such resolution.
- (d) That such resolution was duly adopted by the board of directors.

(5) Such statement shall be executed in 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, and shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall, when all fees have been paid as in this title prescribed:

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

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

(c) Return the other original to the corporation or its representative.

(6) Upon the filing of such statement by the secretary of state, the resolution establishing and designating the series and fixing and determining the relative rights and preferences thereof shall become effective and shall constitute an amendment of the articles of incorporation. [1977 1st ex.s. c 193 § 2; 1975 1st ex.s. c 264 § 5; 1965 c 53 § 16.]

23A.08.480 Annual report—Contents—Filing—Compliance—Violation—Penalty. (1) Every corporation hereafter organized under this title and any foreign corporation authorized to do business in the state of Washington, shall (a) within thirty days after issuance of its certificate of incorporation, or (b) within thirty days of the issuance of its certificate of authority, file an annual report with the secretary of state containing the information described in subsections (2)(a) through (2)(d) of this section.

(2) In addition, every corporation heretofore or hereafter organized under the laws of the territory or state of Washington and any foreign corporation authorized to do business in Washington shall at the time it is required to pay its annual license fee and at such additional times as it may elect, file with the secretary of state an annual report, sworn to by its president and attested by its secretary, containing, as of the date of execution of the report:

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

(b) 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.

(c) 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.

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

(3) The secretary of state shall file such annual report in his office for the fee of two dollars. If any corporation shall fail to comply with the foregoing provisions of this section and more than one year shall have elapsed from the date of the filing of the last report, service of process against such corporation may be made by serving duplicate copies upon the secretary of state. Upon such service being made, the secretary of state shall forthwith mail one of such duplicate copies of such process to such

corporation at its registered office or its last known address, as shown by the records of his office.

(4) For every violation of this section there shall become due and owing to the state of Washington the sum of five dollars which sum shall be collected by the secretary of state. [1977 1st ex.s. c 193 § 3; 1973 c 71 § 1; 1971 ex.s. c 133 § 1; 1971 ex.s. c 38 § 6; 1969 ex.s. c 83 § 2; 1967 c 190 § 3; 1965 c 53 § 51.]

Chapter 23A.12

FORMATION OF CORPORATIONS

Sections

23A.12.030 Filing of articles of incorporation.

23A.12.030 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 the fees have been paid as in this title described:

(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 the other original.

The certificate of incorporation together with the original of the articles of incorporation affixed thereto by the secretary of state shall be returned to the incorporators or their representative. [1977 1st ex.s. c 193 § 4; 1965 c 53 § 56.]

Chapter 23A.16

AMENDMENT

Sections

23A.16.040 Articles of amendment.

23A.16.050 Filing of articles of amendment.

23A.16.070 Restated articles of incorporation.

23A.16.080 Amendment of articles of incorporation in reorganization proceedings.

23A.16.100 Cancellation of redeemable shares by redemption or purchase.

23A.16.110 Cancellation of other reacquired shares.

23A.16.120 Reduction of stated capital in certain cases.

23A.16.040 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) The date of the adoption of the amendment by the shareholders.

(4) The number of shares outstanding, and the number of shares entitled to vote thereon, and if the shares of any class are entitled to vote thereon as a class, the designation and number of outstanding shares entitled to vote thereon of each such class.

(5) The number of shares voted for and against such amendment, respectively, and, if the shares of any class are entitled to vote thereon as a class, the number of shares of each such class voted for and against such amendment, respectively.

(6) If such amendment provides for an exchange, reclassification, or cancellation of issued shares, and if the manner in which the same shall be effected is not set forth in the amendment, then a statement of the manner in which the same shall be effected.

(7) If such amendment effects a change in the amount of stated capital, then a statement of the manner in which the same is effected and a statement, expressed in dollars, of the amount of stated capital as changed by such amendment. [1977 1st ex.s. c 193 § 5; 1965 c 53 § 63.]

23A.16.050 Filing of articles 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 title 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 originals in his office.

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

The certificate of amendment, together with the original of the articles of amendment affixed thereto by the secretary of state, shall be returned to the corporation or its representative. [1977 1st ex.s. c 193 § 6; 1967 c 190 § 4; 1965 c 53 § 64.]

23A.16.070 Restated articles of incorporation. (1) A domestic corporation may, at any time, by resolution of its board of directors and without the necessity of approval by its shareholders, restate in a single document the entire text of its articles of incorporation, as previously amended, supplemented or restated, by filing in the office of the secretary of state a document entitled "Restated Articles of Incorporation of (insert name of corporation)" which shall set forth the articles as amended and supplemented to the date of the restated articles.

(2) The restated articles of incorporation shall not alter or amend the original articles or any amendment thereto in any substantive respect and shall contain all the statements required by this title to be included in the original articles of incorporation, except that in lieu of setting forth the names and addresses of the first board of directors, the restated articles shall set forth the names and addresses of the directors in office at the time of the adoption of the restated articles; and no statement need be made with respect to the names and addresses of the incorporators or shares subscribed by them.

(3) The restated articles of incorporation shall be prepared in duplicate originals, signed by the president or vice-president and by the treasurer, secretary or assistant secretary, of the corporation and shall be verified by

their signed affidavits, (a) that they have been authorized to execute such restated articles by resolution of the board of directors adopted on the date stated, (b) that the restated articles correctly set forth the text of the articles of incorporation as amended and supplemented to the date of the restated articles and (c) that the restated articles supersede and take the place of theretofore existing articles of incorporation and amendments thereto.

(4) Duplicate originals of the restated articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the restated articles of incorporation conform to law, he shall, when all fees have been paid as in this title 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 originals in his office.

(c) Issue a certificate of restated articles of incorporation to which he shall affix the other original.

Thereupon the restated articles of incorporation shall become effective.

(5) The certificate of restated articles of incorporation, together with the original of restated articles of incorporation affixed thereto by the secretary of state shall be returned to the corporation or its representative.

(6) The restated articles of incorporation shall supersede and take the place of theretofore existing articles of incorporation and amendments thereto and shall have the same effect and may be used for the same purposes as original articles of incorporation. [1977 1st ex.s. c 193 § 7; 1967 c 190 § 5; 1965 c 53 § 66.]

23A.16.080 Amendment of articles of incorporation in reorganization proceedings. (1) Whenever a plan of reorganization of a corporation has been confirmed by decree or order of a court of competent jurisdiction in proceedings for the reorganization of such corporation, pursuant to the provisions of any applicable statute of the United States relating to reorganizations of corporations, the articles of incorporation of the corporation may be amended, in the manner provided in this section, in as many respects as may be necessary to carry out the plan and put it into effect, so long as the articles of incorporation as amended contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making such amendment.

In particular and without limitation upon such general power of amendment, the articles of incorporation may be amended for such purpose so as to:

(a) Change the corporate name, period of duration, or corporate purposes of the corporation;

(b) Repeal, alter, or amend the bylaws of the corporation;

(c) Change the aggregate number of shares, or shares of any class, which the corporation has authority to issue;

(d) Change the preferences, limitations, and relative rights in respect of all or any part of the shares of the corporation, and classify, reclassify or cancel all or any part thereof, whether issued or unissued;

(e) Authorize the issuance of bonds, debentures, or other obligations of the corporation, whether or not convertible into shares of any class or bearing warrants or other evidences of optional rights to purchase or subscribe for shares of any class, and fix the terms and conditions thereof; and

(f) Constitute or reconstitute and classify or reclassify the board of directors of the corporation, and appoint directors and officers in place of or in addition to all or any of the directors or officers then in office.

(2) Amendments to the articles of incorporation pursuant to this section shall be made in the following manner:

(a) Articles of amendment approved by decree or order of such court shall be executed and verified in duplicate by such person or persons as the court shall designate or appoint for the purpose, and shall set forth the name of the corporation, the amendments of the articles of incorporation approved by the court, the date of the decree or order approving the articles of amendment, the title of the proceedings in which the decree or order was entered, and a statement that such decree or order was entered by a court having jurisdiction of the proceedings for the reorganization of the corporation pursuant to the provisions of an applicable statute of the United States.

(b) 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 title prescribed:

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

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

(iii) Issue a certificate of amendment to which he shall affix the other original.

(3) The certificate of amendment, together with the original of the articles of amendment affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

(4) 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, without any action thereon by the directors or shareholders of the corporation and with the same effect as if the amendments had been adopted by unanimous action of the directors and shareholders of the corporation. [1977 1st ex.s. c 193 § 8; 1965 c 53 § 67.]

23A.16.100 Cancellation of redeemable shares by redemption or purchase. (1) When redeemable shares of a corporation are redeemed or purchased by the corporation, the redemption or purchase shall effect a cancellation of such shares, and a statement of cancellation shall be filed as provided in this section. Thereupon such shares shall be restored to the status of authorized but unissued shares, unless the articles of incorporation provide that such shares when redeemed or purchased shall not be reissued, in which case the filing of the statement of cancellation shall constitute an amendment to the

articles of incorporation and shall reduce the number of shares of the class so canceled which the corporation is authorized to issue by the number of shares so canceled.

(2) The statement of cancellation 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, and shall set forth:

(a) The name of the corporation.

(b) The number of redeemable shares canceled through redemption or purchase, itemized by classes and series.

(c) The aggregate number of issued shares, itemized by classes and series, after giving effect to such cancellation.

(d) The amount, expressed in dollars, of the stated capital of the corporation after giving effect of such cancellation.

(e) If the articles of incorporation provide that the canceled shares shall not be reissued, then the number of shares which the corporation has authority to issue, itemized by classes and series, after giving effect to such cancellation.

(3) Duplicate originals of such statement shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall, when all fees have been paid as in this title prescribed:

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

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

(c) Return the other original to the corporation or its representative.

(4) Upon the filing by the secretary of state of such statement of cancellation, the stated capital of the corporation shall be deemed to be reduced by that part of the stated capital which was, at the time of such cancellation, represented by the shares so canceled.

(5) Nothing contained in this section shall be construed to forbid a cancellation of shares or a reduction of stated capital in any other manner permitted by this title. [1977 1st ex.s. c 193 § 9; 1965 c 53 § 69.]

23A.16.110 Cancellation of other reacquired shares.

(1) A corporation may at any time, by resolution of its board of directors, cancel all or any part of the shares of the corporation of any class reacquired by it, other than redeemable shares redeemed or purchased, and in such event a statement of cancellation shall be filed as provided in this section.

(2) The statement of cancellation 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, and shall set forth:

(a) The name of the corporation.

(b) The number of reacquired shares canceled by resolution duly adopted by the board of directors, itemized by classes and series, and the date of its adoption.

(c) The aggregate number of issued shares, itemized by classes and series, after giving effect to such cancellation.

(d) The amount, expressed in dollars, of the stated capital of the corporation after giving effect to such cancellation.

(3) Duplicate originals of such statement shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall, when all fees have been paid as in this title prescribed:

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

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

(c) Return the other original to the corporation or its representative.

(4) Upon the filing by the secretary of state of such statement of cancellation, the stated capital of the corporation shall be deemed to be reduced by that part of the stated capital which was, at the time of such cancellation, represented by the shares so canceled, and the shares so canceled shall be restored to the status of authorized but unissued shares.

(5) Nothing contained in this section shall be construed to forbid a cancellation of shares or a reduction of stated capital in any other manner permitted by this title. [1977 1st ex.s. c 193 § 10; 1965 c 53 § 70.]

23A.16.120 Reduction of stated capital in certain cases. (1) A reduction of the stated capital of a corporation, where such reduction is not accompanied by any action requiring an amendment of the articles of incorporation and not accompanied by a cancellation of shares, may be made in the following manner:

(a) The board of directors shall adopt a resolution setting forth the amount of the proposed reduction and the manner in which the reduction shall be effected, and directing that the question of such reduction be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(b) Written notice, stating that the purpose or one of the purposes of such meeting is to consider the question of reducing the stated capital of the corporation in the amount and manner proposed by the board of directors, shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in this title for the giving of notice of meetings of shareholders.

(c) At such meeting a vote of the shareholders entitled to vote thereon shall be taken on the question of approving the proposed reduction of stated capital, which shall require for its adoption the affirmative vote of the holders of a majority of the shares entitled to vote thereon.

(2) When a reduction of the stated capital of a corporation has been approved as provided in this section, a statement 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, and shall set forth:

(a) The name of the corporation.

(b) A copy of the resolution of the shareholders approving such reduction, and the date of its adoption.

(c) The number of shares outstanding, and the number of shares entitled to vote thereon.

(d) The number of shares voted for and against such reduction, respectively.

(e) A statement of the manner in which such reduction is effected, and a statement, expressed in dollars, of the amount of stated capital of the corporation after giving effect to such reduction.

(3) Duplicate originals of such statement shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall, when all fees have been paid as in this title prescribed:

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

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

(c) Return the other original to the corporation or its representative.

(4) Upon the filing of such statement by the secretary of state, the stated capital of the corporation shall be reduced as therein set forth.

(5) No reduction of stated capital shall be made under the provisions of this section which would reduce the amount of the aggregate stated capital of the corporation to an amount equal to or less than the aggregate preferential amounts payable upon all issued shares having a preferential right in the assets of the corporation in the event of involuntary liquidation, plus the aggregate par value of all issued shares having a par value but no preferential right in the assets of the corporation in the event of involuntary liquidation. [1977 1st ex.s. c 193 § 11; 1965 c 53 § 71.]

Chapter 23A.20

MERGER AND CONSOLIDATION

Sections

23A.20.040	Articles of merger or consolidation.
23A.20.050	Merger of subsidiary corporation.

23A.20.040 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) As to each corporation, the number of shares outstanding, and, if the shares of any class are entitled to vote as a class, the designation and number of outstanding shares of each such class.

(c) As to each corporation, the number of shares voted for and against such plan, respectively, and, if the shares of any class are entitled to vote as a class, the number of shares of each such class voted for and against such plan, respectively.

(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 title prescribed:

(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 the other original.

(3) 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, or its representative. [1977 1st ex.s. c 193 § 12; 1965 c 53 § 76.]

23A.20.050 Merger of subsidiary corporation. (1) Any corporation owning at least ninety-five percent of the outstanding shares of each class of another corporation may merge such other corporation into itself without approval by a vote of the shareholders of either corporation. Its board of directors shall, by resolution, approve a plan of merger setting forth:

(a) The name of the subsidiary corporation and the name of the corporation owning at least ninety-five percent of its shares, which is hereinafter designated as the surviving corporation.

(b) The manner and basis of converting the shares of the subsidiary corporation into shares or other securities or obligations of the surviving corporation or of any other corporation or, in whole or in part, into cash or other property, or the cash or other consideration to be paid or delivered upon surrender of each share of the subsidiary corporation.

(2) A copy of such plan of merger shall be mailed to each shareholder of record of the subsidiary corporation.

(3) Articles of merger shall be executed in duplicate by the surviving corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of its officers signing such articles, and shall set forth:

(a) The plan of merger;

(b) The number of outstanding shares of each class of the subsidiary corporation and the number of such shares of each class owned by the surviving corporation; and

(c) The date of the mailing to shareholders of the subsidiary corporation of a copy of the plan of merger.

(4) On and after the thirtieth day after the mailing of a copy of the plan of merger to shareholders of the subsidiary corporation or upon the waiver thereof by the holders of all outstanding shares duplicate originals of the articles of merger 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 title prescribed:

(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; and

(c) Issue a certificate of merger to which he shall affix the other original.

(5) The certificate of merger, together with the original of the articles of merger affixed thereto by the secretary of state, shall be returned to the surviving

corporation or its representative. [1977 1st ex.s. c 193 § 13; 1971 ex.s. c 38 § 4; 1965 c 53 § 77.]

Chapter 23A.28 DISSOLUTION

Sections

23A.28.010	Voluntary dissolution by incorporators.
23A.28.020	Voluntary dissolution by consent of shareholders.
23A.28.030	Voluntary dissolution by act of corporation.
23A.28.040	Filing of statement of intent to dissolve.
23A.28.070	Revocation of voluntary dissolution proceedings by consent of shareholders.
23A.28.080	Revocation of voluntary dissolution proceedings by act of corporation.
23A.28.090	Filing of statement of revocation of voluntary dissolution proceedings.
23A.28.110	Articles of dissolution.
23A.28.120	Filing of articles of dissolution.

23A.28.010 Voluntary dissolution by incorporators.

A corporation which has not commenced business and which has not issued any shares, may be voluntarily dissolved by its incorporators at any time within two years after the date of the issuance of its certificate of incorporation, in the following manner:

(1) Articles of dissolution shall be executed in duplicate by a majority of the incorporators, and verified by them, and shall set forth:

(a) The name of the corporation.

(b) The date of issuance of its certificate of incorporation.

(c) That none of its shares has been issued.

(d) That the corporation has not commenced business.

(e) That the amount, if any, actually paid in on subscriptions for its shares, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto.

(f) That no debts of the corporation remain unpaid.

(g) That a majority of the incorporators elect that the corporation be dissolved.

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

(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 dissolution to which he shall affix the other 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 incorporators or their representatives. Upon the issuance of such certificate of dissolution by the secretary of state, the existence of the corporation shall cease. [1977 1st ex.s. c 193 § 14; 1965 c 53 § 84.]

23A.28.020 Voluntary dissolution by consent of shareholders. A corporation may be voluntarily dissolved by the written consent of all of its shareholders.

Upon the execution of such written consent, a statement of intent to dissolve 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) The names and respective addresses of its officers.
- (3) The names and respective addresses of its directors.
- (4) A copy of the written consent signed by all shareholders of the corporation.
- (5) A statement that such written consent has been signed by all shareholders of the corporation or signed in their names by their attorneys thereunto duly authorized. [1977 1st ex.s. c 193 § 15; 1965 c 53 § 85.]

23A.28.030 Voluntary dissolution by act of corporation. A corporation may be dissolved by the act of the corporation, when authorized 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 shareholders, which may be either an annual or a special meeting.

(2) Written notice shall be given to each shareholder of record entitled to vote at such meeting within the time and in the manner provided in this title for the giving of notice of meetings of shareholders, and, whether the meeting be an annual or special meeting, shall state that the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the corporation.

(3) At such meeting a vote of shareholders entitled to vote thereat shall be taken on a resolution to dissolve the corporation. Such resolution shall be adopted upon receiving the affirmative vote of the holders of two-thirds of the shares of the corporation entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the resolution shall be adopted upon receiving the affirmative vote of the holders of two-thirds of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon.

(4) Upon the adoption of such resolution, a statement of intent to dissolve 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:

- (a) The name of the corporation.
- (b) The names and respective addresses of its officers.
- (c) The names and respective addresses of its directors.
- (d) A copy of the resolution adopted by the shareholders authorizing the dissolution of the corporation.
- (e) The number of shares outstanding, and, if the shares of any class are entitled to vote as a class, the designation and number of outstanding shares of each such class.

(f) The number of shares voted for and against the resolution, respectively, and, if the shares of any class are entitled to vote as a class, the number of shares of

each such class voted for and against the resolution, respectively. [1977 1st ex.s. c 193 § 16; 1965 c 53 § 86.]

23A.28.040 Filing of statement of intent to dissolve.

Duplicate originals of the statement of intent to dissolve, whether by consent of shareholders or by act of the corporation, shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall, when all fees have been paid as in this title prescribed:

(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) Return the other original to the corporation or its representative. [1977 1st ex.s. c 193 § 17; 1965 c 53 § 87.]

23A.28.070 Revocation of voluntary dissolution proceedings by consent of shareholders. By the written consent of all of its shareholders, a corporation may, at any time prior to the issuance of a certificate of dissolution by the secretary of state, revoke voluntary dissolution proceedings theretofore taken, in the following manner:

Upon the execution of such written consent, a statement of revocation of voluntary dissolution proceedings 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) The names and respective addresses of its officers.

(3) The names and respective addresses of its directors.

(4) A copy of the written consent signed by all shareholders of the corporation revoking such voluntary dissolution proceedings.

(5) That such written consent has been signed by all shareholders of the corporation or signed in their names by their attorneys thereunto duly authorized. [1977 1st ex.s. c 193 § 18; 1965 c 53 § 90.]

23A.28.080 Revocation of voluntary dissolution proceedings by act of corporation. By the act of the corporation, a corporation may, at any time prior to the issuance of a certificate of dissolution by the secretary of state, revoke voluntary dissolution proceedings theretofore taken, 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 special meeting of shareholders.

(2) Written 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 shareholder of record entitled to vote at such meeting within the time and in the manner provided in this title for the giving of notice of special meetings of shareholders.

(3) At such meeting a vote of the shareholders entitled to vote thereat shall be taken on a resolution to

revoke the voluntary dissolution proceedings, which shall require for its adoption the affirmative vote of the holders of two-thirds of the shares entitled to vote thereon.

(4) Upon the adoption of such resolution, a statement of revocation of voluntary dissolution proceedings 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:

- (a) The name of the corporation.
- (b) The names and respective addresses of its officers.
- (c) The names and respective addresses of its directors.
- (d) A copy of the resolution adopted by the shareholders revoking the voluntary dissolution proceedings.
- (e) The number of shares outstanding.
- (f) The number of shares voted for and against the resolution, respectively. [1977 1st ex.s. c 193 § 19; 1965 c 53 § 91.]

23A.28.090 Filing of statement of revocation of voluntary dissolution proceedings. Duplicate originals of the statement of revocation of voluntary dissolution proceedings, whether by consent of shareholders or by act of the corporation, shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall, when all fees have been paid as in this title prescribed:

- (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) Return the other original to the corporation or its representative. [1977 1st ex.s. c 193 § 20; 1965 c 53 § 92.]

23A.28.110 Articles of dissolution. If voluntary dissolution proceedings have not been revoked, then when all debts, liabilities, and obligations of the corporation have been paid and discharged, or adequate provision has been made therefor, and all of the remaining property and assets of the corporation have been distributed to its shareholders, 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) That the secretary of state has theretofore filed a statement of intent to dissolve the corporation, and the date on which such statement was filed.
- (3) That all debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor.
- (4) That all the remaining property and assets of the corporation have been distributed among its shareholders in accordance with their respective rights and interests.
- (5) 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. [1977 1st ex.s. c 193 § 21; 1965 c 53 § 94.]

23A.28.120 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 title 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 dissolution to which he shall affix the other original.

The certificate of dissolution, together with the 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 the existence of the corporation shall cease, except for the purpose of suits, other proceedings, and appropriate corporate action by shareholders, directors, and officers as provided in this title. [1977 1st ex.s. c 193 § 22; 1965 c 53 § 95.]

Chapter 23A.40 FEES AND CHARGES

Sections

23A.40.040 Domestic—Fees for filing articles and documents increasing capital stock.

23A.40.040 Domestic—Fees for filing articles and documents increasing capital stock. Every domestic corporation, except one for which existing law provides a different fee schedule, shall pay for filing of its articles of incorporation a fee of fifty dollars for the first fifty thousand dollars or less, of its authorized capital stock; and one-tenth of one percent additional on all amounts in excess of fifty thousand dollars and not exceeding one million dollars; one twenty-fifth of one percent additional on all amounts in excess of one million dollars, and not exceeding four million dollars; and one-fiftieth of one percent additional on all amounts in excess of four million dollars; but in no case shall the amount exceed five thousand dollars.

Every domestic corporation, except one for which existing law provides a different fee schedule, desiring to file in the office of the secretary of state, articles amendatory or supplemental articles increasing its capital stock, or certificates of increase of capital stock, shall pay to the secretary of state the fees hereinabove in this section provided, in proportion to such increased capital stock upon the actual amount of such increase, and every such corporation desiring to file other amendatory or supplemental articles shall pay to the secretary of state a fee of ten dollars. [1977 1st ex.s. c 193 § 23; 1965 c 53 § 137.]

Title 24
CORPORATIONS AND ASSOCIATIONS
(NONPROFIT)

Chapters

24.46 Foreign trade zones.

Chapter 24.46
FOREIGN TRADE ZONES

Sections

24.46.010 Legislative finding—Intent.
24.46.020 Application for permission to establish, operate and maintain foreign trade zones authorized.

Operation of foreign trade zones by port districts: RCW 53.08.030.

24.46.010 Legislative finding—Intent. It is the finding of the legislature that foreign trade zones serve an important public purpose by the creation of employment opportunities within the state and that the establishment of zones designed to accomplish this purpose is to be encouraged. It is the further intent of the legislature that the department of commerce and economic development provide assistance to entities planning to apply to the United States for permission to establish such zones. [1977 1st ex.s. c 196 § 1.]

Effective date—1977 1st ex.s. c 196: "This 1977 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, 1977." [1977 1st ex.s. c 196 § 8.] This applies to RCW 24.46.010, 24.46.020, 35.21.800, 35.21.805, 36.01.120, 36.01.125, and the 1977 amendment to RCW 53.08.030.

24.46.020 Application for permission to establish, operate and maintain foreign trade zones authorized. A nonprofit corporation or organization, as zone sponsor, may apply to the United States for permission to establish, operate, and maintain foreign trade zones: *Provided*, That nothing herein shall be construed to prevent these zones from being operated and financed by a private corporation(s) on behalf of said nonprofit corporation acting as zone sponsor. [1977 1st ex.s. c 196 § 2.]

Effective date—1977 1st ex.s. c 196: See note following RCW 24.46.010.

Title 26
DOMESTIC RELATIONS

Chapters

26.09 Dissolution of marriage—Legal separation—Declarations concerning validity of marriage.
26.32 Adoption.
26.36 Child agencies.
26.40 Handicapped children.
26.44 Abuse of children and adult developmentally disabled—Protection—Procedure.

Chapter 26.09
DISSOLUTION OF MARRIAGE—LEGAL
SEPARATION—DECLARATIONS CONCERNING
VALIDITY OF MARRIAGE

Sections

26.09.240 Child custody—Visitation rights.
26.09.400 Children taken into custody or receiving certain services not to be delivered to parents who have not been awarded custody—Exception. (Effective July 1, 1978.)

Living in marital relationship within state submits person to state jurisdiction as to proceedings under this chapter: RCW 4.28.185.

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 whether or not there has been any change of circumstances.

Any person may petition the court for visitation rights at any time including, but not limited to, custody proceedings.

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. [1977 1st ex.s. c 271 § 1; 1973 1st ex.s. c 157 § 24.]

26.09.400 Children taken into custody or receiving certain services not to be delivered to parents who have not been awarded custody—Exception. (Effective July 1, 1978.) Any child taken into custody or receiving services under chapters 13.30, 13.32 and 13.34 RCW, RCW 26.44.050, 28A.27.070, 74.13.020 and 74.13.031 may not be delivered to or placed with a parent who has not been awarded temporary or permanent custody of such child, pursuant to a child custody order under chapter 26.09 RCW, unless such child has been found by the juvenile court to be a dependent child as provided in RCW 13.34.030. [1977 1st ex.s. c 291 § 54.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

Chapter 26.32
ADOPTION

Sections

26.32.280 Statistical data concerning adoptions.

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 may compile the data and publish reports summarizing said data. 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. [1977 c 75 § 13; 1971 ex.s. c 172 § 10.]

Chapter 26.36 CHILD AGENCIES

Sections

26.36.050 Medical report required to be furnished adopting parents—Contents.

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 the mental, physical and sensory handicaps of said child. 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. [1977 1st ex.s. c 80 § 21; 1970 ex.s. c 82 § 1.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Chapter 26.40 HANDICAPPED CHILDREN

Sections

26.40.010 Declaration of purpose.
26.40.030 Petition by parent for order of commitment—
Grounds.

26.40.010 Declaration of purpose. The purpose of this chapter is to assure the right of every physically, mentally or sensory 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. [1977 1st ex.s. c 80 § 22; 1955 c 272 § 1.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

26.40.030 Petition by parent for order of commitment—Grounds. The parents or parent of any child who is temporarily or permanently delayed in normal educational processes and/or normal social adjustment by reason of physical, sensory 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, as now or hereafter amended. [1977 1st ex.s. c 80 § 23; 1955 c 272 § 3.]

Purpose—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Chapter 26.44 ABUSE OF CHILDREN AND ADULT DEVELOPMENTALLY DISABLED— PROTECTION—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. (Effective until July 1, 1978).
26.44.050 Abuse or neglect of child—Duty of law enforcement agency or department of social and health services—Taking child into custody without court order, when. (Effective July 1, 1978).
26.44.070 Central registry of reported cases of child abuse or abuse of adult developmentally disabled person—Confidentiality—Penalty.

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 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.

Adult developmentally disabled persons not able to provide for their own protection through the criminal justice system shall also be afforded the protection offered children through the reporting and investigation requirements mandated in this chapter. [1977 1st ex.s. c 80 § 24; 1975 1st ex.s. c 217 § 1; 1969 ex.s. c 35 § 1; 1965 c 13 § 1.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

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.

(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.

(14) "Adult developmentally disabled persons not able to provide for their own protection through the criminal justice system" shall be defined as those persons over the age of eighteen years with developmental disabilities who have been found legally incompetent pursuant to chapter 11.88 RCW or found disabled to such a degree pursuant to said chapter, that such protection is indicated: *Provided,* That no persons reporting injury, abuse or neglect to an adult developmentally disabled person as defined herein shall suffer negative consequences if such a judicial determination of incompetency or disability has not taken place and the person reporting believes in good faith that the adult developmentally disabled person needs the protection offered by this chapter. [1977 1st ex.s. c 80 § 25; 1975 1st ex.s. c 217 § 2; 1969 ex.s. c 35 § 2; 1965 c 13 § 2.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

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 or adult developmentally disabled person has suffered 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 or adult developmentally disabled person has suffered 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 abuse or neglect pursuant to this chapter, involving a child or adult developmentally disabled person 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. [1977 1st ex.s. c 80 § 26; 1975 1st ex.s. c 217 § 3; 1971 ex.s. c 167 § 1; 1969 ex.s. c 35 § 3; 1965 c 13 § 3.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

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 or adult developmentally disabled person;

(2) The name and address of the child's parents, step-parents, guardians, or other persons having custody of

the child or the residence of the adult developmentally disabled person;

- (3) The nature and extent of the injury or injuries;
- (4) The nature and extent of the neglect;
- (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 or adult developmentally disabled person's death, injury, or injuries and the identity of the perpetrator or perpetrators. [1977 1st ex.s. c 80 § 27; 1975 1st ex.s. c 217 § 4; 1971 ex.s. c 167 § 2; 1969 ex.s. c 35 § 4; 1965 c 13 § 4.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

26.44.050 Abuse of child—Duty of law enforcement agency or department of social and health services. (Effective until July 1, 1978). Upon the receipt of a report concerning the possible occurrence of 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 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 or adult developmentally disabled person for the purpose of providing documentary evidence of the physical condition of the child or disabled person at the time the child or disabled person was taken into custody. [1977 1st ex.s. c 80 § 28; 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.

26.44.050 Abuse or neglect of child—Duty of law enforcement agency or department of social and health services—Taking child into custody without court order, when. (Effective July 1, 1978.) Upon the receipt of a report concerning the possible occurrence of 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 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.

A law enforcement officer may take, or cause to be taken, a child into custody without a court order if there is probable cause to believe that the child is abused or neglected and that the child would be injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050. 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 or adult developmentally disabled person for the purpose of providing documentary evidence of the physical condition of the child or disabled person at the

time the child or disabled person was taken into custody. [1977 1st ex.s. c 291 § 51; 1977 1st ex.s. c 80 § 28; 1975 1st ex.s. c 217 § 5; 1971 ex.s. c 302 § 15; 1969 ex.s. c 35 § 5; 1965 c 13 § 5.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Severability—1971 ex.s. c 302: See note following RCW 9.41.010.

Children taken into custody or receiving certain services not to be delivered to parents who have not been awarded custody—Exception: RCW 26.09.400.

26.44.070 Central registry of reported cases of child abuse or abuse of adult developmentally disabled person—Confidentiality—Penalty. The department shall maintain a central registry of reported cases of child abuse or abuse of an adult developmentally disabled person 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 abuse or neglect; (2) to protective services workers or juvenile court personnel who are investigating reported incidences of abuse or neglect; (3) physicians who are treating the child or adult developmentally disabled person or family; (4) any child or adult developmentally disabled person 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 or adult developmentally disabled person 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. [1977 1st ex.s. c 80 § 29; 1975 1st ex.s. c 217 § 7; 1972 ex.s. c 46 § 1; 1969 ex.s. c 35 § 6.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Title 27

LIBRARIES, MUSEUMS AND HISTORICAL ACTIVITIES

Chapters

27.04	State library.
27.12	Public libraries.
27.28	Washington state historical society.
27.32	Eastern Washington state historical society.

- 27.36 State capitol historical association and museum.
- 27.44 Indian graves and records.
- 27.53 Archaeological sites and resources.

**Chapter 27.04
STATE LIBRARY**

Sections

- 27.04.037 Duties of commission—Deposit of copies of state publications.

27.04.037 Duties of commission—Deposit of copies of state publications. The state library commission, on recommendation of the state librarian, may provide by rule or regulation for deposit with the state library of up to three copies of any state publication, as defined in RCW 40.06.010 as now existing or hereafter amended, prepared by any state agency whenever fifteen or more copies are prepared for distribution. [1977 1st ex.s. c 232 § 7.]

**Chapter 27.12
PUBLIC LIBRARIES**

Sections

- 27.12.010 Definitions.
- 27.12.360 Annexation of city or town into rural county library district or intercounty rural library district—Initiation procedure.
- 27.12.370 Annexation of city or town into rural library district or intercounty rural library district—Special election procedure.
- 27.12.380 Annexation of city or town into rural county library district or intercounty rural library district—Withdrawal of annexed city or town.
- 27.12.390 Annexation of city or town into rural library district or intercounty rural library district—Tax levies.

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 as provided in RCW 27.12.080; 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: *Provided*, That any city or town with a population of eight thousand five hundred or less at the time of annexation may be included therein as provided in RCW 27.12.360 through 27.12.390; 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: *Provided*, That any city or town with a population of eight thousand five hundred or less at the time of annexation may be included therein as provided in RCW 27.12.360 through 27.12.390. [1977 1st ex.s. c 353 § 5; 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.

27.12.360 Annexation of city or town into rural county library district or intercounty rural library district—Initiation procedure. Any city or town with a population of eight thousand five hundred or less at the time of annexation may become a part of any rural county library district or intercounty rural library district lying contiguous thereto by annexation in the following manner: The inclusion of such a city or town may be initiated by the adoption of an ordinance by the legislative authority thereof stating its intent to join the library district and finding that the public interest will be served thereby. If the board of trustees of the rural library district or intercounty rural library district concurs in the annexation, notification thereof shall be transmitted to the legislative authority or authorities of the counties in which the city or town is situated. [1977 1st ex.s. c 353 § 1.]

27.12.370 Annexation of city or town into rural library district or intercounty rural library district—Special election procedure. The county legislative authority or authorities shall by resolution call a special election to be held in such city or town at the next date provided in RCW 29.13.010 but not less than forty-five days from the date of the declaration of such finding, and shall cause notice of such election to be given as provided for in RCW 29.27.080.

The election on the annexation of the city or town into the library district shall be conducted by the auditor of the county or counties in which the city or town is located in accordance with the general election laws of the state and the results thereof shall be canvassed by the canvassing board of the county or counties. No person shall be entitled to vote at such election unless he or she is registered to vote in said city or town for at least thirty days preceding the date of the election. The ballot proposition shall be in substantially the following form:

"Shall the city or town of _____ be annexed to and be a part of _____ library district?"

YES
NO

If a majority of the persons voting on the proposition shall vote in favor thereof, the city or town shall thereupon be annexed and shall be a part of such intercounty

rural library district or rural library district. [1977 1st ex.s. c 353 § 2.]

27.12.380 Annexation of city or town into rural county library district or intercounty rural library district—Withdrawal of annexed city or town. The legislative body of such a city or town which has annexed to such a library district, may, by resolution, present to the voters of such city or town a proposition to withdraw from said rural county library district or intercounty rural library district at any general election held at least three years following the annexation to the library district. [1977 1st ex.s. c 353 § 3.]

27.12.390 Annexation of city or town into rural library district or intercounty rural library district—Tax levies. The annual tax levy authorized by RCW 27.12.050 and 27.12.150 shall be imposed throughout the library district, including any city or town annexed thereto. Any city or town annexed to a rural library district or intercounty rural library district shall be entitled to levy up to three dollars and sixty cents per thousand dollars of assessed valuation less any regular levy made by such library district in the incorporated area, notwithstanding any other provision of law: *Provided*, That the limitations upon regular property taxes imposed by chapter 84.55 RCW shall apply. [1977 1st ex.s. c 353 § 4.]

Chapter 27.28

WASHINGTON STATE HISTORICAL SOCIETY

Sections

- 27.28.010 Society as trustee—Duties (as amended by 1977 c 75).
- 27.28.010 Society as trustee—Duties (as amended by 1977 1st ex.s. c 81).

27.28.010 Society as trustee—Duties (as amended by 1977 c 75). 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 periodically a report of 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. [1977 c 75 § 14; 1903 c 177 § 1; RRS § 8259.]

27.28.010 Society as trustee—Duties (as amended by 1977 1st ex.s. c 81). 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 native 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. [1977 1st ex.s. c 81 § 2; 1903 c 177 § 1; RRS § 8259.]

Reviser's note: RCW 27.28.010 was amended twice during the 1977 regular and first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Society as trustee of county or municipal materials: RCW 27.48.030.

Chapter 27.32

EASTERN WASHINGTON STATE HISTORICAL SOCIETY

Sections

- 27.32.010 Society as trustee—Duties (as amended by 1977 c 75).
- 27.32.010 Society as trustee—Duties (as amended by 1977 1st ex.s. c 81).

27.32.010 Society as trustee—Duties (as amended by 1977 c 75). 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.
- (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 periodically a report of 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.
- (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. [1977 c 75 § 15; 1973 c 35 § 1; 1925 ex.s. c 187 § 1; RRS § 8265-1.]

27.32.010 Society as trustee—Duties (as amended by 1977 1st ex.s. c 81). 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.

(3) To gather data and information concerning the origin, history, language, and customs of native 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. [1977 1st ex.s. c 81 § 3; 1973 c 35 § 1; 1925 ex.s. c 187 § 1; RRS § 8265-1.]

Reviser's note: RCW 27.32.010 was amended twice during the 1977 regular and first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Society as trustee of county or municipal materials: RCW 27.48.030.

Chapter 27.36

STATE CAPITOL HISTORICAL ASSOCIATION AND MUSEUM

Sections

27.36.050 Director—Duties.

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; and

(3) To perform such other duties and functions as may be delegated to him by the board of trustees. [1977 c 75 § 16; 1965 ex.s. c 62 § 3; 1941 c 44 § 5; Rem. Supp. 1941 § 8265-8.]

Chapter 27.44

INDIAN GRAVES AND RECORDS

Sections

27.44.020 Examination permitted—Removal to museum.

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 Washington State University or a duly designated member of either president's faculty. [1977 1st ex.s. c 169 § 6; 1941 c 216 § 2; Rem. Supp. 1941 § 3207-11.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Chapter 27.53

ARCHAEOLOGICAL SITES AND RESOURCES

Sections

27.53.020 Archaeological resource preservation, etc., declared public functions—Archaeological research center designated state agency—Cooperation enjoined.

27.53.030 Definitions.

27.53.050 Repealed.

27.53.060 Disturbing, etc., archaeological resource or site without permission unlawful—Exceptions.

27.53.080 Archaeological activities upon public lands—Entry—Agreement—Approval of activities.

27.53.090 Violations—Penalty.

27.53.020 Archaeological resource preservation, etc., declared public functions—Archaeological research center designated state agency—Cooperation enjoined. The discovery, identification, 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 preservation officer, 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, the Washington archaeological research center, and other agencies of the state. [1977 1st ex.s. c 195 § 12; 1975-'76 2nd ex.s. c 82 § 1; 1975 1st ex.s. c 134 § 2.]

Severability—1977 1st ex.s. c 195: See note following RCW 43.51A.010.

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 met the educational, training, and experience requirements of the society of professional 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.

(7) "Preservation officer" means the state historic preservation officer as provided for in RCW 43.51A.060.

(8) "Office" means the office of archaeology and historic preservation. [1977 1st ex.s. c 195 § 13; 1975 1st ex.s. c 134 § 3.]

Severability—1977 1st ex.s. c 195: See note following RCW 43.51A.010.

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

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 knowingly 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 preservation officer for such activities on public property or from the private landowner for such activities on private land. A private

landowner may request the preservation officer to assume the duty of issuing such permits. The preservation officer must obtain the consent of the public property owner or agency responsible for the management thereof, prior to issuance of the permit. The preservation officer, 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 or within the intertidal zone. [1977 1st ex.s. c 195 § 14; 1975-'76 2nd ex.s. c 82 § 2; 1975 1st ex.s. c 134 § 6.]

Severability—1977 1st ex.s. c 195: See note following RCW 43.51A.010.

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 a professional archaeologist or an institution of higher education 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. 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. [1977 1st ex.s. c 195 § 15; 1975 1st ex.s. c 134 § 8.]

Severability—1977 1st ex.s. c 195: See note following RCW 43.51A.010.

27.53.090 Violations—Penalty. Any person, firm, or corporation 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. Offenses shall be reported to the appropriate law enforcement agency or to the preservation officer. [1977 1st ex.s. c 195 § 16; 1975-'76 2nd ex.s. c 82 § 4; 1975 1st ex.s. c 134 § 9.]

Severability—1977 1st ex.s. c 195: See note following RCW 43.51A.010.

**Title 28A
COMMON SCHOOL PROVISIONS**

Chapters

- 28A.01 Definitions.
- 28A.02 General provisions.
- 28A.03 Superintendent of public instruction.
- 28A.04 State board of education.
- 28A.10 Vocational rehabilitation and services for handicapped persons.
- 28A.13 Special education—Division for handicapped children.
- 28A.21 Educational service districts—Superintendent—Boards.
- 28A.24 School transportation.
- 28A.27 Compulsory school attendance.
- 28A.41 Current state school fund—School district reimbursement programs.
- 28A.44 Basis of apportionment at county level—County high school levy against nonhigh school districts.
- 28A.45 Excise tax on real estate sales.
- 28A.47 School plant facilities aid—Bond issues.
- 28A.58 Provisions applicable to all school districts.
- 28A.65 School district budgets.
- 28A.67 Teachers—General provisions.
- 28A.71 Teachers' institutes, workshops and other in-service training.
- 28A.87 Offenses relating to schools, school personnel—Penalties.
- 28A.91 Washington state educational television commission.
- 28A.97 Educational clinics.

**Chapter 28A.01
DEFINITIONS**

Sections

- 28A.01.020 School year—Beginning—End.
- 28A.01.130 Certificated employee. (Effective September 1, 1978.)

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: *Provided*, That any school district may elect to commence the minimum annual school term as required under RCW 28A.58.180 in the month of August of any calendar year and in such case the operation of a school district for such period in August shall be credited by the superintendent of public instruction to the succeeding school year for the purpose of the allocation and distribution of state funds for the support of such school district. [1977 1st ex.s. c 286 § 1; 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.01.130 Certificated employee. (Effective September 1, 1978.) The term "certificated employee" as

used in RCW 28A.02.201, 28A.41.140, 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. [1977 1st ex.s. c 359 § 17; 1975 1st ex.s. c 288 § 21; 1973 1st ex.s. c 105 § 1.]

Effective date—Severability—1977 1st ex.s. c 359: See notes following RCW 28A.58.750.

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.

Basic Education Act of 1977, RCW 28A.01.130 as part of: RCW 28A.58.750.

Construction of chapter—Employee's rights preserved: RCW 41.59.920.

Construction of chapter—Employer's responsibilities and rights preserved: RCW 41.59.930.

**Chapter 28A.02
GENERAL PROVISIONS**

Sections

- 28A.02.070 Programs in observance of Veterans' Day.
- 28A.02.110 Surplus texts and other educational aids, notice of availability—Student priority as to texts.
- 28A.02.201 Private schools—Scope of state control—Generally. (Effective September 1, 1978.)

Educational clinics: Chapter 28A.97 RCW.

In-Service Training Act of 1977: RCW 28A.71.200 and 28A.71.210.

School facilities cost stabilization program: RCW 28A.03.400–28A.03.409.

28A.02.070 Programs in observance of Veterans' Day. On the school day preceding the eleventh day of November 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. [1977 1st ex.s. c 120 § 2; 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—1977 1st ex.s. c 120: See note following RCW 4.28.080.

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.02.110 Surplus texts and other educational aids, notice of availability—Student priority as to texts. Notwithstanding any other provision of law, school districts, educational service districts, or any other state or local governmental agency concerned with education, when declaring texts and other books, equipment, instructional materials or relocatable facilities as surplus, shall, prior to other disposal thereof, serve notice in writing to any private school in Washington state annually requesting such a notice, that the same is available for sale to private schools, at depreciated cost or fair market value, whichever is greater: *Provided*, That students wishing to purchase texts pursuant to RCW 28A.58.103(2) shall have priority as to such texts. [1977 1st ex.s. c 303 § 1.]

28A.02.201 Private schools—Scope of state control—Generally. (Effective September 1, 1978.) 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 and 28A.58.754, each as now or hereafter amended, except that the percentages of total program hour offerings as prescribed in RCW 28A.58.754 for basic skills, work skills, and optional subjects and activities shall not apply to private schools or private sectarian schools.

(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. [1977 1st ex.s. c 359 § 9; 1975 1st ex.s. c 275 § 71; 1974 ex.s. c 92 § 2.]

Effective date—Severability—1977 1st ex.s. c 359: See notes following RCW 28A.58.750.

Basic Education Act of 1977, RCW 28A.02.201 as part of: RCW 28A.58.750.

Chapter 28A.03

SUPERINTENDENT OF PUBLIC INSTRUCTION

Sections

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Student learning objectives—Program identifying and establishing, scope—State and local review of and reports on: RCW 28B.58.090 and 28B.58.092.

Surplus texts and other educational aids, notice of availability—Student priority as to texts: RCW 28A.02.110.

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 to the governor and the legislature such information and data as may be required 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. [1977 c 75 § 17; 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.03.0301 Delegation to ESD of SPI program, project or service—Contract. See RCW 28A.21.350.

28A.03.400 School facilities cost stabilization program—Implementation. The school organization and facilities section of the office of the superintendent of public instruction is hereby required to develop and implement a state school construction project known as the Washington school facilities cost stabilization program. [1977 1st ex.s. c 89 § 1.]

28A.03.401 School facilities cost stabilization program—Definitions. As used in RCW 28A.03.400 through 28A.03.409:

(1) "Director" means the director of the school organization and facilities section of the office of the superintendent of public instruction.

(2) "Systems building" means the application of a systematized approach to the programming, design and construction of a facility, with special emphasis on simplicity, repetitiveness and inter-relatedness of building subsystems in the facility design.

(3) "Building subsystem" or "subsystem" means a component of a facility defined for a specific function and comprising the necessary elements and materials to fulfill that function; examples of such subsystems are structural, ceiling-lighting, heating-ventilation-air conditioning, and interior space division subsystems. [1977 1st ex.s. c 89 § 2.]

28A.03.402 School facilities cost stabilization program—Rules and regulations. The director shall, subject to the approval of the state board of education, establish reasonable rules and regulations in accordance with chapter 34.04 RCW for the proper development and implementation of the school facilities cost stabilization program. [1977 1st ex.s. c 89 § 3.]

28A.03.403 School facilities cost stabilization program—Acquisition of professional assistance—Program goals. The director shall, with the approval of the superintendent of public instruction, employ and/or contract such professional and technical assistance, including but not limited to consultants engaged in private practice, as he may see fit, and shall cause to be developed and implemented a state school facilities cost stabilization program to provide school facilities which will meet the educational needs of the children of this state. The program goals shall be:

(1) To stabilize school construction, maintenance and operating costs;

(2) To reduce school design/construction time;

(3) To provide high quality schools capable of being readily and economically adapted to changing school and community needs. [1977 1st ex.s. c 89 § 4.]

28A.03.405 School facilities cost stabilization program—Scope. The Washington school facilities cost stabilization program shall:

(1) Encourage the expansion of the use of systems building in school construction and modernization by implementing the following procedures and others deemed appropriate:

(a) Develop procedural and technical guidelines to assist school officials and school designers in utilizing the systems concept within the framework of state board of education regulations for school building construction;

(b) Review and modify building subsystem specifications developed pursuant to RCW 28A.04.310 and develop and/or review specifications for additional subsystems as appropriate;

(c) Require utilization of systems building on those projects, except modernization projects, receiving state assistance in addition to the amount determined allocable under basic state support level provisions in chapter 180-30 WAC when in the judgment of the superintendent of public instruction the projects lend themselves to systems building;

(d) Provide mandatory critiques of systems project designs on those projects where systems designs are required, and critiquing as requested for districts voluntarily utilizing systems design.

(2) Investigate and/or experiment with emerging design/construction and maintenance/operation practices, and assist school districts in implementing those which hold promise of achieving one or more of the goals of the state school facilities cost stabilization program. [1977 1st ex.s. c 89 § 5.]

28A.03.407 School facilities cost stabilization program—Percentage of appropriated funds used for program. Of the funds appropriated by the legislature to the state board of education for school building purposes from the common school construction fund for the period ending June 30, 1979, not more than two-tenths of one percent of such funds may be used by such board to carry out the purposes of RCW 28A.03.400 through 28A.03.409. [1977 1st ex.s. c 89 § 6.]

28A.03.409 School facilities cost stabilization program—Effective date—Expiration—Evaluation report. This state school facilities cost stabilization program shall have an effective date of July 1, 1977, and shall continue for a period to end on June 30, 1983. An evaluation of the facilities cost stabilization program based on the program goals shall be submitted by the director to the legislature no later than February 15, 1983. [1977 1st ex.s. c 89 § 7.]

Chapter 28A.04

STATE BOARD OF EDUCATION

Sections

- 28A.04.125 Delegation to ESD of state board of education program, project or service—Contract.
- 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.

Educational clinics: Chapter 28A.97 RCW.

School facilities cost stabilization program: RCW 28A.03.400–28A.03.409.

Student learning objectives—Program identifying and establishing, scope—State and local review of and reports on: RCW 28B.58.090 and 28B.58.092.

28A.04.125 Delegation to ESD of state board of education program, project or service—Contract. See RCW 28A.21.355.

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.

School facilities cost stabilization program: RCW 28A.03.400–28A.03.409.

Chapter 28A.10

VOCATIONAL REHABILITATION AND SERVICES FOR HANDICAPPED PERSONS

Sections

- 28A.10.025 Additional duties of state agency—State-wide program—Rules and regulations—Report.

28A.10.025 Additional duties of state agency—State-wide program—Rules and regulations—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 to the governor and to the legislature on the administration of this chapter, as requested. [1977 c 75 § 18; 1969 ex.s. c 223 § 28A.10.025. Prior: 1967 c 118 § 5. Formerly RCW 28.10.035.]

Chapter 28A.13

SPECIAL EDUCATION—DIVISION FOR HANDICAPPED CHILDREN

Additional programs for which legislative appropriations must or may be made: RCW 28A.41.162.

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 Repealed.
- 28A.21.0302 Repealed.
- 28A.21.0304 ESD board—Members—Terms, when nine member board.
- 28A.21.0305 ESD board—Members—Terms, begin when—Vacancies, filling of.
- 28A.21.031 ESD board—Members—Elections, calling and notice of.
- 28A.21.032 ESD board—Members—Elections, filing of declarations of candidacy.
- 28A.21.033 ESD board—Members—Elections, procedure—Certification of results.
- 28A.21.034 ESD board—Members—Elections, contest of.
- 28A.21.035 ESD board—Return to seven member board.
- 28A.21.036 ESD board—Members—Expiration of terms if elected prior to September 21, 1977.
- 28A.21.050 ESD board—Members, qualification, oath, bond—Organization—Quorum.
- 28A.21.060 ESD board—Reimbursement of members for expenses.
- 28A.21.070 Repealed.
- 28A.21.071 ESD superintendent—Appointment, procedure—Qualifications, term, salary, discharge—ESD superintendent review committee.
- 28A.21.080 Repealed.
- 28A.21.105 Certificated employees of district—Contracts of employment—Nonrenewal of contracts.
- 28A.21.106 Certificated employees of district—Adverse change in contract status—Notice—Probable cause—Review—Appeal.
- 28A.21.135 Budgeting procedures for districts.
- 28A.21.136 Identification of core services for budget purposes—Generally.
- 28A.21.137 Identification of core services for budget purposes—Specific services listed.
- 28A.21.138 Identification of core services for budget purposes—Formula utilized for ESD's biennial budget request.
- 28A.21.310 Contracts to lease building space and portable buildings and lease or have maintained security systems, computers and other equipment.
- 28A.21.350 Delegation to ESD of SPI program, project or service—Contract.
- 28A.21.355 Delegation to ESD of state board of education program, project or service—Contract.

ESD superintendent review committee, SPI representative: RCW 28A.21.071.

In-Service Training Act of 1977, as applicable to educational service districts: RCW 28A.71.200 and 28A.71.210.

Surplus texts and other educational aids, notice of availability—Student priority as to texts: RCW 28A.02.110.

28A.21.010 Purpose. It shall be the intent and purpose of this chapter to establish educational service districts as regional agencies which are intended to:

(1) 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; and

(3) Provide services to school districts to assure equal educational opportunities. [1977 1st ex.s. c 283 § 1; 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—1977 1st ex.s. c 283: "If any provision of this 1977 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." [1977 1st ex.s. c 283 § 26.] This applies to RCW 28A.21.010, 28A.21.020, 28A.21.030, 28A.21.0304, 28A.21.0305, 28A.21.031, 28A.21.032, 28A.21.033, 28A.21.034, 28A.21.035, 28A.21.036, 28A.21.050, 28A.21.060, 28A.21.071, 28A.21.105, 28A.21.106, 28A.21.135, 28A.21.136, 28A.21.137, 28A.21.138, 28A.21.350, 28A.21.355 and 39.34.020, and to the repeal of RCW 28A.21.0301, 28A.21.0302, 28A.21.070 and 28A.21.080.

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 upon its own initiative, or upon petition of any educational service district board, or upon petition of at least half of the district superintendents within an educational service district, or upon request of the superintendent of public instruction, 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: *Provided*, That no reduction in the number of educational service districts will take effect without a majority approval vote

by the affected school directors voting in such election by mail ballot. 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. [1977 1st ex.s. c 283 § 2; 1971 ex.s. c 282 § 2; 1969 ex.s. c 176 § 2. Formerly RCW 28.19.505.]

Severability—1977 1st ex.s. c 283: See note following RCW 28A.21.010.

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 chapter, in each educational service district there shall be an educational service district board consisting of seven members elected by the school directors 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 and at the next election called by the secretary to the state board of education pursuant to *RCW 28A.21.031 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 and at the next election called by the secretary to the state board of education 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 school directors of each school district within the educational service 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 immediately redrawn for the purposes of the next election called by the secretary to the state board of education 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. [1977 1st ex.s. c 283 § 14; 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.]

***Reviser's note:** Translation of internal references. In the course of passage of Senate Bill No. 2810 (1977 1st ex.s. c 283) a new section 2 was added but the various internal references contained in the act were not adjusted accordingly. These internal references have been herein adjusted as part of the codification process, pursuant to the authority of RCW 1.08.015.

This applies to RCW 28A.21.030, 28A.21.036, 28A.21.135, 28A.21.136 and 28A.21.138.

Severability—1977 1st ex.s. c 283: See note following RCW 28A.21.010.

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

28A.21.0302 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

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 election called by the secretary to the state board of education, 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. [1977 1st ex.s. c 283 § 19; 1975 1st ex.s. c 275 § 6; 1974 ex.s. c 75 § 5.]

Severability—1977 1st ex.s. c 283: See note following RCW 28A.21.010.

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 on the second Monday in January next following the election at which he or she was elected: *Provided*, That a person elected to less than a full term pursuant to this section shall take office as soon as the election returns have been certified and he or she has qualified. 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 his or her successor has been elected at the next election called by the secretary to the state board of education and has qualified. [1977 1st ex.s. c 283 § 20; 1975 1st ex.s. c 275 § 7; 1974 ex.s. c 75 § 6.]

Severability—1977 1st ex.s. c 283: See note following RCW 28A.21.010.

Severability—1974 ex.s. c 75: See note following RCW 28A.21.030.

28A.21.031 ESD board—Members—Elections, calling and notice of. On or before the twenty-fifth day of August, 1978, and not later than the twenty-fifth day of August of every subsequent year, the secretary to the state board of education shall call an election to be held in each educational service district within which resides a member of the board of the educational service district whose term of office expires 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 educational service district. Such notice shall include instructions, rules, and regulations established by the state board of education for the conduct of the election. [1977 1st ex.s. c 283 § 15.]

Severability—1977 1st ex.s. c 283: See note following RCW 28A.21.010.

28A.21.032 ESD board—Members—Elections, filing of declarations of candidacy. Candidates for membership on an educational service district board shall file declarations of candidacy with the secretary to the state board of education on forms prepared by the secretary. Declarations of candidacy may be filed by person or by mail not earlier than the first day of September, nor later than the sixteenth day of September. The secretary to the state board of education may not accept any declaration of candidacy that is not on file in his or her office or is not postmarked before the seventeenth day of September. [1977 1st ex.s. c 283 § 16.]

Severability—1977 1st ex.s. c 283: See note following RCW 28A.21.010.

28A.21.033 ESD board—Members—Elections, procedure—Certification of results. Each member of an educational service district board shall be elected by a majority of the votes cast at the election for all candidates for the position. All votes shall be cast by mail

addressed to the secretary to the state board of education and no votes shall be accepted for counting if post-marked after the sixteenth day of October following the call of the election. The secretary to the state board of education and an election board comprised of three persons appointed by the state board of education shall count and tally the votes not later than the twenty-fifth day of October in the following manner: Each vote cast by a school director shall be accorded as one vote. If no candidate receives a majority of the votes cast, then, not later than the first day of November, the secretary to the state board of education 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 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 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 secretary to the state board of education. Within ten days following the count of votes in an election at which a member of an educational service district board is elected, the secretary to the state board of education shall certify to the county auditor of the headquarters county of the educational service district the name or names of the persons elected to be members of the educational service district board. [1977 1st ex.s. c 283 § 17.]

Severability—1977 1st ex.s. c 283: See note following RCW 28A.21.010.

28A.21.034 ESD board—Members—Elections, contest of. Any common school district board member eligible to vote for a candidate for membership on an educational service district or any candidate for the position, within ten days after the secretary to the state board of education's certification of election, may contest the election of the candidate pursuant to RCW 28A.04.065, as now or hereafter amended. [1977 1st ex.s. c 283 § 18.]

Severability—1977 1st ex.s. c 283: See note following RCW 28A.21.010.

28A.21.035 ESD board—Return to seven member board. Any educational service district board which elects under RCW 28A.21.0304, as now or hereafter amended, 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, at the next election a new board consisting of seven educational service board members shall be elected in accordance with the provisions of this chapter. [1977 1st ex.s. c 283 § 21; 1975 1st ex.s. c 275 § 9; 1974 ex.s. c 75 § 8; 1971 ex.s. c 282 § 4.]

Severability—1977 1st ex.s. c 283: See note following RCW 28A.21.010.

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.21.036 ESD board—Members—Expiration of terms if elected prior to September 21, 1977. Educational service district board members elected to their office prior to September 21, 1977 shall complete their terms of office and for the purposes of *RCW 28A.21.030, 28A.21.0304, 28A.21.0305, 28A.21.031 through 28A.21.036 and 28A.21.050 the date for expiration of terms of office shall be the second Monday of January next following the election of their successors pursuant to *RCW 28A.21.030, 28A.21.0304, 28A.21.0305, 28A.21.031 through 28A.21.036 and 28A.21.050. [1977 1st ex.s. c 283 § 23.]

***Reviser's note:** Translation of internal references, see note following RCW 28A.21.030.

Severability—1977 1st ex.s. c 283: See note following RCW 28A.21.010.

28A.21.050 ESD board—Members, qualification, oath, bond—Organization—Quorum. Every candidate for membership on a 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 of newly elected members 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. [1977 1st ex.s. c 283 § 22; 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—1977 1st ex.s. c 283: See note following RCW 28A.21.010.

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.21.060 ESD board—Reimbursement of members for expenses. The actual expenses of educational service board members in going to, returning from and attending meetings called or held pursuant to district business or while otherwise engaged in the performance of their duties under this chapter shall be paid; all such claims shall be approved by the educational service district board and paid from the budget of the educational service district. [1977 1st ex.s. c 283 § 3; 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.]

Severability—1977 1st ex.s. c 283: See note following RCW 28A.21.010.

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

28A.21.071 ESD superintendent—Appointment, procedure—Qualifications, term, salary, discharge—ESD superintendent review committee. (1) Every educational service district board shall employ 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 three years, and who may be discharged for sufficient cause.

(2) There is hereby established within each educational service district an educational service district superintendent review committee. Such review committee shall be composed of two school district superintendents from within the educational service district selected by the educational service district board and a representative of the state superintendent of public instruction selected by the state superintendent of public instruction.

(3) Prior to the employment by the educational service district board of a new educational service district superintendent, the review committee shall screen all applicants for the position and recommend to the board a list of three candidates. The educational service district board shall select the new superintendent from the list of three candidates or shall reject the entire list and request the review committee to submit three additional candidates, and the educational service district board shall repeat this process until a superintendent is selected.

(4) To be eligible for nomination or selection to the office of educational service district superintendent, a candidate must meet the educational and experience requirements statutorily set for school district superintendents: *Provided*, That any person employed on September 21, 1977 as an educational service district superintendent or assistant-superintendent shall be deemed qualified to hold the office of educational service district superintendent. [1977 1st ex.s. c 283 § 4.]

Severability—1977 1st ex.s. c 283: See note following RCW 28A.21.010.

28A.21.080 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.21.105 Certificated employees of district—Contracts of employment—Nonrenewal of contracts. No certificated employee of an educational service district shall be employed as such 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 May 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 hearing officer, 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. [1977 1st ex.s. c 283 § 7; 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.]

Severability—1977 1st ex.s. c 283: See note following RCW 28A.21.010.

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 district—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 or superintendent, hereinafter referred to as employee, of that educational service district 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 superintendents 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. [1977 1st ex.s. c 283 § 8; 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.]

Severability—1977 1st ex.s. c 283: See note following RCW 28A.21.010.

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.21.135 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 and in accordance with *RCW 28A.21.136, 28A.21.137 and 28A.21.138. [1977 1st ex.s. c 283 § 12; 1975 1st ex.s. c 275 § 30; 1971 ex.s. c 282 § 20.]

***Reviser's note:** Translation of internal references, see note following RCW 28A.21.030.

Severability—1977 1st ex.s. c 283: See note following RCW 28A.21.010.

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

28A.21.136 Identification of core services for budget purposes—Generally. It is the intent of the legislature that a basic core of uniform services be provided by educational service districts and be identified in statute so that biennial budget requests for educational service districts may be based upon measurable goals and needs. Educational service districts as noted in RCW 28A.21.010, are intended primarily to:

(1) Provide cooperative and informational services to local districts and to perform functions for those districts when such functions are more effectively or economically administered from the regional level;

(2) Assist the state educational agencies, office of superintendent of public instruction and the state board of education in the legal performance of their duties; and

(3) Assist in providing pupils with equal educational opportunities.

The purpose of *RCW 28A.21.137 and 28A.21.138 is to further identify those core services in order to prepare educational service district budgets for the 1979–81 biennium, and those bienniums beyond. [1977 1st ex.s. c 283 § 9.]

***Reviser's note:** Translation of internal references, see note following RCW 28A.21.030.

Severability—1977 1st ex.s. c 283: See note following RCW 28A.21.010.

28A.21.137 Identification of core services for budget purposes—Specific services listed. The basic core services and cost upon which educational service districts are budgeted shall include, but not be limited to, the following:

(1) Educational service district administration and facilities such as office space, maintenance and utilities;

(2) Cooperative administrative services such as assistance in carrying out procedures to abolish sex and race bias in school programs, fiscal services, grants management services, special education services and transportation services;

(3) Personnel services such as certification/registration services;

(4) Learning resource services such as audio visual aids;

(5) Cooperative curriculum services such as health promotion and health education services, in-service training, workshops and assessment; and

(6) Special needs of local education agencies. [1977 1st ex.s. c 283 § 10.]

Severability—1977 1st ex.s. c 283: See note following RCW 28A.21.010.

28A.21.138 Identification of core services for budget purposes—Formula utilized for ESD's biennial budget request. The superintendent of public instruction, pursuant to RCW 28A.21.135, as now or hereafter amended, shall prepare the biennial budget request for the operation of educational service districts based upon a formula using the following factors:

(1) The core service cost itemized in *RCW 28A.21.137 which shall receive primary weighting for formula purposes;

(2) A weighting factor constituting a geographical factor which shall be used to weight the larger sized educational service districts for formula purposes; and

(3) A weighting factor which shall be based on the number and size of local school districts within each educational service district for formula purposes.

The sum of subsection (1) of this section, together with the weighting factors of subsections (2) and (3) of this section for each educational service district, shall reflect the variables among the educational service districts and when combined, a total budget for all educational service districts shall be the result. [1977 1st ex.s. c 283 § 11.]

***Reviser's note:** Translation of internal references, see note following RCW 28A.21.030.

Severability—1977 1st ex.s. c 283: See note following RCW 28A.21.010.

28A.21.310 Contracts to lease building space and portable buildings and lease or have maintained security systems, computers and other equipment. The board of any educational service district may enter into contracts for their respective districts for periods not exceeding five years in duration with public and private persons, organizations, and entities for the following purposes:

(1) To rent or lease building space, portable buildings, security systems, computers and other equipment; and

(2) To have maintained and repaired security systems, computers and other equipment.

The budget of each educational service district shall identify that portion of each contractual liability incurred pursuant to this section extending beyond the fiscal year by amount, duration, and nature of the contracted service and/or item in accordance with rules and regulations of the superintendent of public instruction adopted pursuant to RCW 28A.65.465 and 28A.21.135, as now or hereafter amended. [1977 1st ex.s. c 210 § 2.]

Severability—1977 1st ex.s. c 210: See notes following RCW 28A.58.131.

28A.21.350 Delegation to ESD of SPI program, project or service—Contract. The superintendent of public instruction may delegate to any educational service district or combination of educational service districts all or any portion of a program, project, or service authorized or directed by the legislature to be performed by the superintendent of public instruction: *Provided*, That any such delegation shall be by contract pursuant

to chapter 39.34 RCW, as now or hereafter amended. [1977 1st ex.s. c 283 § 5.]

Severability—1977 1st ex.s. c 283: See note following RCW 28A.21.010.

28A.21.355 Delegation to ESD of state board of education program, project or service—**Contract.** The state board of education may delegate to any educational service district or combination of educational service districts all or any portion of a program, project, or service authorized or directed by the legislature to be performed by the state board of education: *Provided*, That any such delegation shall be by contract pursuant to chapter 39.34 RCW, as now or hereafter amended. [1977 1st ex.s. c 283 § 6.]

Severability—1977 1st ex.s. c 283: See note following RCW 28A.21.010.

Chapter 28A.24 SCHOOL TRANSPORTATION

Sections

- 28A.24.080 Transportation routes—Procedure to establish.
- 28A.24.090 Repealed.
- 28A.24.100 Authorizing individual transportation or other arrangements—Pupils must provide own transportation, when.
- 28A.24.150 Repealed.

Additional programs for which legislative appropriations must or may be made: RCW 28A.41.162.

28A.24.080 Transportation routes—**Procedure to establish.** School district transportation routes for purposes of state reimbursement of transportation costs shall be recommended by the board of directors of each school district and approved or disapproved by the educational service district superintendent or his or her designee pursuant to rules and regulations promulgated by the superintendent of public instruction for that purpose. [1977 c 80 § 1; 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—1977 c 80: "If any provision of this 1977 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." [1977 c 80 § 5.] This applies to RCW 28A.24.080, 28A.24.100, 28A.41.160 and to the repeal of RCW 28A.24.090 and 28A.24.150.

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

28A.24.100 Authorizing individual transportation or other arrangements—**Pupils must provide own transportation, when.** Individual transportation, board and room, and other arrangements may be authorized or provided and, in whole or part, paid for or reimbursed

by a school district, when approved by the educational service district superintendent or his or her designee pursuant to rules promulgated by the superintendent of public instruction for that purpose: **PROVIDED**, That the total of payments for board and room and transportation incidental thereto shall not exceed the amount which would otherwise be paid for such individual transportation. 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 pursuant to this section and except for the handicapped students described in this section, pupils residing within two miles of an established route may be required to travel to the route at their own expense. [1977 c 80 § 2; 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—1977 c 80: See note following RCW 28A.24.080.

Severability—**Effective date**—1971 ex.s. c 66: See notes following RCW 28A.13.005.

28A.24.150 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 28A.27 COMPULSORY SCHOOL ATTENDANCE

Sections

- 28A.27.070 Acquiring custody and disposition of truants—Information on crisis interventions services to be given. (Effective July 1, 1978.)

28A.27.070 Acquiring custody and disposition of truants—**Information on crisis interventions services to be given.** (Effective July 1, 1978.) 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 (1) to the custody of a person in parental relation to the child or (2) to the school from which the child is then a truant. A designated school official may inform an habitual truant and such child's parents, and shall inform any student who has been expelled from school in accordance with procedures provided by law and such child's parents, of the nature and location of services provided for in RCW 74.13.020(3) if such services may be appropriate to the needs of the child, and shall offer to assist in establishing contact between such family and such services. An habitual truant for the purposes of this section is one who absents himself with frequency from the school he is required to attend. [1977 1st ex.s. c 291 § 52; 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.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

Children taken into custody or receiving certain services not to be delivered to parents who have not been awarded custody—Exception: RCW 26.09.400.

Chapter 28A.41

CURRENT STATE SCHOOL FUND—SCHOOL DISTRICT REIMBURSEMENT PROGRAMS

Sections

- 28A.41.130 Annual basic education allocation of funds according to average FTE student enrollment—Student/teacher ratio standard. (Effective September 1, 1978.)
- 28A.41.140 Annual basic education allocation of funds according to average FTE student enrollment—Procedure to determine distribution formula—Submittal to legislature—Enrollment, FTE student, certificated and classified staff, defined—Minimum contact classroom hours. (Effective September 1, 1978.)
- 28A.41.145 Part time students—Defined—Enrollment authorized—Reimbursement for costs—Funding authority recognition—Rules, regulations. (Effective September 1, 1978.)
- 28A.41.160 Reimbursement for transportation costs—Method. (Effective until September 1, 1978.)
- 28A.41.160 Reimbursement for transportation costs—Method. (Effective September 1, 1978.)
- 28A.41.162 Additional programs for which legislative appropriations must or may be made. (Effective September 1, 1978.)

28A.41.130 Annual basic education allocation of funds according to average FTE student enrollment—Student/teacher ratio standard. (Effective September 1, 1978.) 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, excluding excess property tax levies, will constitute a basic education allocation in dollars for each annual average full time equivalent student 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 pursuant to chapter 28A.45 RCW; 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.

Basic education shall be considered to be fully funded by those amounts of dollars appropriated by the legislature pursuant to RCW 28A.41.130 and 28A.41.140 to fund those program requirements identified in RCW 28A.58.754 in accordance with the formula and ratios provided in RCW 28A.41.140.

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 students per classroom teacher in grades kindergarten through three is not greater than the ratio of students 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 an instructional employee possessing at least a provisional certificate, but not necessarily employed as a certificated employee, whose primary duty is the daily educational instruction of students: *Provided further*, That the state board of education shall adopt rules and regulations to insure compliance with the student/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 student/teacher ratio requirements of this section by virtue of a small number of students: *Provided, further*, That these rules and regulations shall provide that any district that has a ratio of no greater than twenty-five students per classroom teacher in grades kindergarten through three shall be in conformance with this section.

If a school district's basic education program fails to meet the basic education requirements enumerated in RCW 28A.41.130, 28A.41.140 and 28A.58.754, the state board of education shall require the superintendent of public instruction to withhold state funds in whole or in part for the basic education allocation until program compliance is assured: *Provided*, That for the school years 1978 through 1981 the state board of education may waive this requirement in the event of levy failure: *Provided further*, That the state board of education may waive this requirement in the event of substantial lack of classroom space. [1977 1st ex.s. c 359 § 4; 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—Severability—1977 1st ex.s. c 359: See notes following RCW 28A.58.750.

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.

Basic Education Act of 1977, RCW 28A.41.130 as part of: RCW 28A.58.750.

28A.41.140 Annual basic education allocation of funds according to average FTE student enrollment—Procedure to determine distribution formula—Submittal to legislature—Enrollment, FTE student, certificated and classified staff, defined—Minimum contact classroom hours. (Effective September 1, 1978.) The basic education allocation for each annual average full time equivalent student shall be determined in accordance with the following procedures:

The governor shall and the superintendent of public instruction may recommend to the legislature a formula based on a ratio of students to staff for the distribution of a basic education allocation for each annual average full time equivalent student enrolled in a common school. The distribution formula shall have the primary objective of equalizing educational opportunities and shall provide appropriate recognition of the following costs among the various districts within the state:

- (1) Certificated staff and their related costs;
- (2) Classified staff and their related costs;
- (3) Nonsalary costs; and
- (4) Extraordinary costs of remote and necessary schools and small high schools.

This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature. Commencing with the 1980–81 school year, the formula adopted by the legislature shall reflect a ratio of not less than fifty certificated personnel to one thousand annual average full time equivalent students and one classified person to three certificated personnel. In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous biennium shall remain in effect: *Provided*, That the distribution formula developed pursuant to this section shall be for state apportionment and equalization purposes only and shall not be construed as mandating specific operational functions of local school districts other than those program requirements identified in RCW 28A.58.754. The enrollment of any district shall be the annual average number of full time equivalent students and part time students as provided in RCW 28A.41.145, as now or hereafter amended, enrolled on the first school day of each month. The definition of full time equivalent student shall be determined by rules and regulations of the superintendent of public instruction: *Provided*, That the definition shall be included as part of the superintendent's biennial budget request: *Provided, further*, That any revision of the present definition shall not take effect until approved by the house appropriations committee and the senate ways and means committee: *Provided, further*, That the office of program planning and fiscal

management shall make a monthly review of the superintendent's reported full time equivalent students in the common schools in conjunction with RCW 43.62.050.

Certificated staff shall include those persons employed by a school district in a teaching, instructional, administrative or supervisory capacity and who hold positions as certificated employees as defined under RCW 28A.01-.130, as now or hereafter amended, and every school district superintendent, and any person hired in any manner to fill a position designated as, or which is in fact, that of deputy superintendent or assistant superintendent: *Provided*, That in exceptional cases, people of unusual competence but without certification may teach students so long as a certificated person exercises general supervision: *Provided, further*, That the hiring of such noncertificated people shall not occur during a labor dispute and such noncertificated people shall not be hired to replace certificated employees during a labor dispute: *Provided, further*, That the hiring of such noncertificated persons shall be subject to disapproval by the superintendent of public instruction. Annual written statements shall be submitted to the office of the superintendent of public instruction reporting and explaining such circumstances. Annual average full time equivalent certificated classroom teacher's direct classroom contact hours shall be at least twenty-five hours per week. Classroom contact hours shall be exclusive of time required to be spent for preparation, conferences, or any other nonclassroom instruction duties. Classified staff shall include those persons employed by a school district other than certificated staff as defined in this section in a capacity for which certification is not required. [1977 1st ex.s. c 359 § 5; 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.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Effective date—Severability—1977 1st ex.s. c 359: See notes following RCW 28A.58.750.

Basic Education Act of 1977, RCW 28A.41.140 as part of: RCW 28A.58.750.

Basic Education Act of 1977, rules adopted pursuant to as subject to legislative review: RCW 28A.58.756.

28A.41.145 Part time students—Defined—Enrollment authorized—Reimbursement for costs—Funding authority recognition—Rules, regulations. (Effective September 1, 1978.) (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 distribution of funds to school districts 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. [1977 1st ex.s. c 359 § 8; 1972 ex.s. c 14 § 1; 1969 ex.s. c 217 § 4. Like section formerly RCW 28.41.145.]

Effective date—Severability—1977 1st ex.s. c 359: See notes following RCW 28A.58.750.

Severability—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.

Basic Education Act of 1977, RCW 28A.41.145 as part of: RCW 28A.58.750.

Basic Education Act of 1977, rules adopted pursuant to as subject to legislative review: RCW 28A.58.756.

28A.41.160 Reimbursement for transportation costs—Method. (Effective until September 1, 1978.) 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 superintendent or his or her designee, and as approved by the state superintendent; 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 and chapter 28A.65 RCW. [1977 c 80 § 3; 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—1977 c 80: See note following RCW 28A.24.080.

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.41.160 Reimbursement for transportation costs—Method. (Effective September 1, 1978.) Reimbursement for transportation costs shall be in addition to the basic education allocation. Transportation costs shall be reimbursed as follows:

(1) School districts shall be reimbursed up to one hundred percent of the operational costs for established bus routes for the transportation of students to and from common schools as recommended by the educational service district superintendent or his or her designee, and as approved by the state superintendent: *Provided*, That commencing with the 1980–81 school year, reimbursement shall be at one hundred percent or as close thereto as reasonably possible; and

(2) Costs of acquisition of approved transportation equipment shall be reimbursed up to one hundred percent of the cost to be reimbursed over the anticipated life of the vehicle, as determined by the state superintendent: *Provided*, That commencing with the 1980–81 school year, reimbursement shall be at one hundred percent or as close thereto as reasonably possible: *Provided further*, That reimbursements for the acquisition of approved transportation equipment received by school districts shall be held within the general fund exclusively for the future purchase of approved transportation equipment and for major transportation equipment repairs consistent with rules and regulations authorized and promulgated under RCW 28A.41.170 and chapter 28A.65 RCW. [1977 1st ex.s. c 359 § 6; 1977 c 80 § 3; 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.]

Effective date—Severability—1977 1st ex.s. c 359: See notes following RCW 28A.58.750.

Severability—1971 c 48: See note following RCW 28A.04.040.

Additional programs for which legislative appropriations must or may be made: RCW 28A.41.162.

Basic Education Act of 1977, RCW 28A.41.160 as part of: RCW 28A.58.750.

Transportation routes—Procedure to establish: RCW 28A.24.080.

28A.41.162 Additional programs for which legislative appropriations must or may be made. (Effective September 1, 1978.) In addition to those state funds provided to school districts for basic education, the legislature shall appropriate funds for pupil transportation, in accordance with RCW 28A.41.160, and for programs for handicapped students, in accordance with chapter 28A.13 RCW. The legislature may appropriate funds to be distributed to school districts for population factors such as urban costs, enrollment fluctuations and for special programs, including but not limited to, vocational-technical institutes, compensatory programs, bilingual education, urban, rural, racial and disadvantaged programs, programs for gifted students, and other special programs. [1977 1st ex.s. c 359 § 7.]

Effective date—Severability—1977 1st ex.s. c 359: See notes following RCW 28A.58.750.

Basic Education Act of 1977, RCW 28A.41.162 as part of: RCW 28A.58.750.

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. (Effective September 1, 1978.)
- 28A.44.080 School superintendent's report of nonresident pupils and educating costs. (Effective September 1, 1978.)
- 28A.44.085 ESD board to certify claims against nonhigh districts to county commissioners—Determination of amounts. (Effective September 1, 1978.)

28A.44.040 Attendance basis for apportionments at county level. (Effective September 1, 1978.) The annual average full time equivalent student enrollment as computed under RCW 28A.41.140 for 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. [1977 1st ex.s. c 359 § 12; 1969 ex.s. c 223 § 28A.44.040. Prior: 1945 c 141 § 8; Rem. Supp. 1945 § 4940-7. Formerly RCW 28.44.040.]

Effective date—Severability—1977 1st ex.s. c 359: See notes following RCW 28A.58.750.

Basic Education Act of 1977, RCW 28A.44.040 as part of: RCW 28A.58.750.

28A.44.080 School superintendent's report of nonresident pupils and educating costs. (Effective September 1, 1978.) 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 student 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 student.

(2) The cost per annual average full time equivalent student of educating high school students for the school year in the 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. [1977 1st ex.s. c 359 § 10; 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.]

Effective date—Severability—1977 1st ex.s. c 359: See notes following RCW 28A.58.750.

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.

Basic Education Act of 1977, RCW 28A.44.080 as part of: RCW 28A.58.750.

28A.44.085 ESD board to certify claims against nonhigh districts to county commissioners—Determination of amounts. (Effective September 1, 1978.) 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 students of such district. In fixing the amount of any such claim by a high school district for educating nonresident high school students from such nonhigh districts the educational service district board shall determine the net difference between the cost of educating high school students in the given high school district per annual average full time equivalent student enrolled for the preceding year as determined pursuant to RCW 28A.44.080(2) and the total state basic education allocation provided for in RCW 28A.41.130, per annual average full time equivalent student 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 students 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. [1977 1st ex.s. c 359 § 11; 1975-'76 2nd ex.s. c 118 § 25; 1975 1st ex.s. c 275 § 64; 1972 ex.s. c 124 § 2.]

Effective date—Severability—1977 1st ex.s. c 359: See notes following RCW 28A.58.750.

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.

Basic Education Act of 1977, RCW 28A.44.085 as part of: RCW 28A.58.750.

Chapter 28A.45

EXCISE TAX ON REAL ESTATE SALES

Sections

- 28A.45.040 Repealed. (Effective September 1, 1978.)
- 28A.45.050 Levy of tax—Rate—Disposition of proceeds. (Effective September 1, 1978.)

28A.45.040 Repealed. (Effective September 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.45.050 Levy of tax—Rate—Disposition of proceeds. (Effective September 1, 1978.) The county commissioners or legislative authority of each county shall levy an excise tax upon sales of real estate of one percent of the selling price. 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 annual average full time equivalent students enrolled in each district to the number of annual average full time equivalent students in the county. [1977 1st ex.s. c 359 § 13; 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.]

Effective date—Severability—1977 1st ex.s. c 359: See notes following RCW 28A.58.750.

Basic Education Act of 1977, RCW 28A.45.050 as part of: RCW 28A.58.750.

Chapter 28A.47

SCHOOL PLANT FACILITIES AID—BOND ISSUES

Sections

- 28A.47.830 Specific RCW sections enumerated governing allocation and distribution of funds for school plant facilities.

School facilities cost stabilization program: RCW 28A.03.400-28A.03.409.

28A.47.830 Specific RCW sections enumerated governing allocation and distribution of funds for school plant facilities. Notwithstanding any other provision of this chapter, on and after September 21, 1977, the allocation and distribution of funds by the state board of education which are now or may hereafter be appropriated for the purposes of providing assistance in the construction of school plant facilities shall be governed by RCW 28A.47.073, 28A.47.075, and 28A.47.801 through 28A.47.809. [1977 1st ex.s. c 227 § 1.]

Chapter 28A.58

PROVISIONS APPLICABLE TO ALL SCHOOL DISTRICTS

Sections

- 28A.58.090 Student learning objectives—Program identifying and establishing, scope—State and local review of and reports on.
- 28A.58.092 Student learning objectives—Timelines for other courses of study—SPI annual review and report.
- 28A.58.103 Instructional materials—Instructional materials committee—Disposition of used or obsolete material.
- 28A.58.113 Fees for optional noncredit extracurricular events—Disposition.
- 28A.58.120 Associated student body program fund—Created—Source of funds—Expenditures—Budgeting—Care of other moneys received by students for private purposes.

- 28A.58.131 Contracts to lease building space and portable buildings and lease or have maintained security systems, computers and other equipment.
- 28A.58.137 Employment of superintendent—Superintendent's qualifications, general powers, term, contract renewal.
- 28A.58.150 Superintendent's duties.
- 28A.58.160 Principals and vice principals—Employment of—Qualifications—Duties.
- 28A.58.180 Minimum annual school term.
- 28A.58.190 Qualification for admission to district's schools. (Effective September 1, 1978.)
- 28A.58.242 Appeal from certain decisions to deny student's request to attend nonresident district—Procedure.
- 28A.58.310 Reimbursement of expenses of directors, other school representatives, and superintendent candidates—Advancing anticipated expenses.
- 28A.58.420 Liability, life, health, health care, accident, disability and salary insurance authorized—Premiums.
- 28A.58.455 Adverse change in contract status of certificated employee, including nonrenewal of contract—Hearings—Procedure.
- 28A.58.750 Basic Education Act of 1977—Program contents—As meeting constitutional requirements. (Effective September 1, 1978.)
- 28A.58.752 Basic Education Act of 1977—Goal. (Effective September 1, 1978.)
- 28A.58.754 Basic Education Act of 1977—Definitions—Program requirements—Program accessibility—Rules and regulations. (Effective September 1, 1978.)
- 28A.58.756 Basic Education Act of 1977—Rules adopted pursuant to as subject to legislative review. (Effective September 1, 1978.)
- 28A.58.758 Basic Education Act of 1977—District school directors as accountable for proper operation of district—Scope—Responsibilities—Publication of guide. (Effective September 1, 1978.)
- 28A.58.760 Basic Education Act of 1977—Certificated teaching and administrative staff as accountable for classroom teaching—Scope—Responsibilities—Penalty. (Effective September 1, 1978.)

ESD superintendent review committee, school director representatives: RCW 28A.21.071.

School facilities cost stabilization program: RCW 28A.03.400–28A.03.409.

Surplus texts and other educational aids, notice of availability—Student priority as to texts: RCW 28A.02.110.

28A.58.090 Student learning objectives—Program identifying and establishing, scope—State and local review of and reports on. 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, for grades kindergarten through eight, and on or before September 1, 1978, for grades nine through twelve, by rule and regulation, shall develop a program identifying student learning objectives for their district in the areas of language arts, reading, and math, and initiate implementation of such program on or before September 1, 1978, for grades kindergarten through eight, and on or before September 1, 1981, for grades nine through twelve: *Provided*, That such student learning objectives for grades kindergarten through eight shall be reviewed by the superintendent of public instruction and a report of such review shall be submitted to the legislature on or before January 31, 1978: *Provided further*, That the school district must evidence community participation in defining the objectives of such a program. 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 and courses: *Provided further*, That such learning objectives shall be measurable as to the actual student attainment; student attainment shall be locally assessed annually and the student learning objectives program shall be reviewed at least every two years.

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. [1977 1st ex.s. c 305 § 1; 1975-'76 2nd ex.s. c 90 § 1.]

Summary of program objectives to be included in guide: RCW 28A.58.758.

28A.58.092 Student learning objectives—Timelines for other courses of study—SPI annual review and report. It is the intent of the legislature that learning objectives shall subsequently be developed and assessed by school districts for all other courses of study included in school district programs. Within one hundred eighty days after the adjournment of the first extraordinary session of the forty-fifth legislature, the superintendent of public instruction shall provide to the standing committees on education of the house of representatives and the senate a plan setting forth timelines for school district compliance in establishing a student learning objectives program for those courses of study which have been statutorily required prior to January 1, 1977.

Within one hundred eighty days after the adoption by the legislature of a definition of basic education, the superintendent of public instruction shall provide to the standing committees on education of the house of representatives and the senate a plan setting forth timelines for school district compliance in establishing a student learning objectives program based upon the definition of basic education. Such plans shall set forth the fiscal impact upon the state, educational service district, and school district of compliance with the student learning objectives program.

The superintendent of public instruction shall review implementation of the learning objectives law annually and shall submit a report of such review to the legislature on or before January 30 of each year. [1977 1st ex.s. c 305 § 2.]

Reviser's note: Adjournment of the first extraordinary session of the legislature was on June 22, 1977. The Washington Basic Education Act of 1977 was passed by both the house of representatives and senate upon adopting the report of the Free Conference Committee on June 20, 1977; said bill was signed by the governor, July 1, 1977, and has an effective date of September 1, 1978.

28A.58.103 Instructional materials—Instructional materials committee—Disposition of used or obsolete material.

Surplus texts and other educational aids, notice of availability—
Student priority as to texts: RCW 28A.02.110.

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 and may likewise waive or reduce such fees for nonstudents of the age of sixty-five or over who, 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. [1977 1st ex.s. c 170 § 1; 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.58.120 Associated student body program fund—Created—Source of funds—Expenditures—Budgeting—Care of other moneys received by students for private purposes. 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 obligations, 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.

Nonassociated student body program fund moneys generated and received by students for private purposes, including but not limited to use for scholarship and/or charitable purposes, may, in the discretion of the board of directors of any school district, be held in trust in one or more separate accounts within an associated student body program fund and be disbursed for such purposes: *Provided*, That the school district shall either withhold an amount from such moneys as will pay the district for its cost in providing the service or otherwise be compensated for its cost for such service. [1977 1st ex.s. c 160 § 1; 1975 1st ex.s. c 284 § 2.]

Severability—1975 1st ex.s. c 284: See note following RCW 28A.58.113.

28A.58.131 Contracts to lease building space and portable buildings and lease or have maintained security systems, computers and other equipment. The board of directors of any school district may enter into contracts for their respective districts for periods not exceeding five years in duration with public and private persons, organizations, and entities for the following purposes:

(1) To rent or lease building space, portable buildings, security systems, computers and other equipment; and

(2) To have maintained and repaired security systems, computers and other equipment.

The budget of each school district shall identify that portion of each contractual liability incurred pursuant to this section extending beyond the fiscal year by amount, duration, and nature of the contracted service and/or item in accordance with rules and regulations of the superintendent of public instruction adopted pursuant to RCW 28A.65.465 and 28A.21.135, as now or hereafter amended.

The provisions of this section shall not have any effect on the length of contracts for school district employees specified by RCW 28A.58.100 and 28A.67.070, as now or hereafter amended. [1977 1st ex.s. c 210 § 1.]

Severability—1977 1st ex.s. c 210: "If any provision of this 1977 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." [1977 1st ex.s. c 210 § 3.] This applies to RCW 28A.21.310 and 28A.58.131.

**28A.58.137 Employment of superintendent—
Superintendent's qualifications, general powers, term,
contract renewal.**

Reimbursement of expenses of directors, other school representatives, and superintendent candidates—Advancing anticipated expenses: RCW 28A.58.310.

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 persons with handicapping conditions between the ages of three 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. [1977 1st ex.s. c 80 § 30; 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.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

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.58.160 Principals and vice principals—
Employment of—Qualifications—Duties.** School districts may employ public school principals and/or vice principals to supervise the operation and management of the school to which they are assigned. Such persons shall hold valid teacher and administrative certificates. In addition to such other duties as shall be prescribed by law and by the job description adopted by the board of directors, each principal shall:

(1) Assume administrative authority, responsibility and instructional leadership, under the supervision of the school district superintendent, and in accordance with the policies of the school district board of directors, for the planning, management, supervision and evaluation of the educational program of the attendance area for which he or she is responsible.

(2) Submit recommendations to the school district superintendent regarding appointment, assignment, promotion, transfer and dismissal of all personnel assigned to the attendance area for which he or she is responsible.

(3) Submit recommendations to the school district superintendent regarding the fiscal needs to maintain and improve the instructional program of the attendance area for which he or she is responsible.

(4) Assume administrative authority and responsibility for the supervision, counseling and discipline of pupils in the attendance area for which he or she is responsible. [1977 1st ex.s. c 272 § 1.]

Severability—1977 1st ex.s. c 272: "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." [1977 1st ex.s. c 272 § 2.] This applies to RCW 28A.58.160.

28A.58.180 Minimum annual school term.

School year—Beginning—End: RCW 28A.01.020.

28A.58.190 Qualification for admission to district's schools. (Effective September 1, 1978.) Except as otherwise provided by law, it is the general policy of the

state that the common schools shall be open to the admission of all persons between the ages of five and twenty-one years residing in that school district. Except as otherwise provided by law, the state board of education is hereby authorized to adopt rules in accordance with chapter 34.04 RCW which establish uniform entry qualifications, including but not limited to birth date requirements, for admission to kindergarten and first grade programs of the common schools. Such rules may provide for exceptions based upon the ability, or the need, or both, of an individual student. [1977 1st ex.s. c 359 § 14; 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.]

Effective date—Severability—1977 1st ex.s. c 359: See notes following RCW 28A.58.750.

Basic Education Act of 1977, RCW 28A.58.190 as part of: RCW 28A.58.750.

Basic Education Act of 1977, rules adopted pursuant to as subject to legislative review: RCW 28A.58.756.

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 superintendent of public instruction or his or her designee: *Provided*, That the school district of proposed transfer is willing to accept the student.

The superintendent of public instruction or his or her designee shall hear the appeal and examine the evidence. The superintendent of public instruction may order the resident district to release such a student who is under the age of twenty-one years in the event he or she or his or her designee 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 superintendent of public instruction may be appealed to superior court pursuant to chapter 34.04 RCW, the administrative procedure act, as now or hereafter amended. [1977 c 50 § 1; 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.58.310 Reimbursement of expenses of directors, other school representatives, and superintendent candidates—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 board of directors may pay the actual and necessary expenses for travel, lodging and meals a superintendent candidate incurs when he or she attends an employment interview in the school district. The school directors, school superintendents, other school representatives or superintendent candidates 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. [1977 c 73 § 1; 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.58.420 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: *Provided*, That the school district may contribute all or part of the costs, including the premiums, of life, health, health care, accident or disability insurance which shall be offered to all students participating in interschool activities on the behalf of or as representative of their school or school district. 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. [1977 1st ex.s. c 255 § 1; 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.58.455 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 hearing officer shall schedule a prehearing conference to be held within such five day period, unless the board of directors and employee agree on another date convenient with the hearing officer. 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 court of the state of Washington.

(b) Make other appropriate rulings of law and procedure.

(c) Within ten days following the conclusion of the hearing transmit in writing to the board and to the employee, findings of fact and conclusions of law and final decision. If the final decision is in favor of the employee, the employee shall be restored to his or her employment position and shall be awarded reasonable attorneys' fees.

(8) Any final decision by the hearing officer to non-renew 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.

(9) 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.

(10) A complete record shall be made of the hearing and all orders and rulings of the hearing officer and school board. [1977 1st ex.s. c 7 § 1; 1975-'76 2nd ex.s. c 114 § 5.]

Severability—1977 1st ex.s. c 7: "If any provision of this 1977 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." [1977 1st ex.s. c 7 § 2.] This applies to RCW 28A.58.455.

Savings—Severability—1975-'76 2nd ex.s. c 114: See notes following RCW 28A.58.137.

28A.58.750 Basic Education Act of 1977—Program contents—As meeting constitutional requirements. (Effective September 1, 1978.) This 1977 amendatory act shall be known and may be cited as "The Washington Basic Education Act of 1977". The program evolving from the Basic Education Act shall include (1) the goal of the school system as defined in

RCW 28A.58.752, (2) those program requirements enumerated in RCW 28A.58.754, and (3) the determination and distribution of state resources as defined in RCW 28A.41.130 and 28A.41.140.

The requirements of the Basic Education Act are deemed by the legislature to comply with the requirements of Article IX, section 1 of the state Constitution, which states that "It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex", and are adopted pursuant to Article IX, section 2 of the state Constitution, which states that "The legislature shall provide for a general and uniform system of public schools". [1977 1st ex.s. c 359 § 1.]

Reviser's note: "This 1977 amendatory act", see notes below relating to 1977 1st ex.s. c 359.

Effective date—1977 1st ex.s. c 359: "This 1977 amendatory act shall take effect September 1, 1978." [1977 1st ex.s. c 359 § 22.]

Severability—1977 1st ex.s. c 359: "If any provision of this 1977 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." [1977 1st ex.s. c 359 § 21.]

The above annotations apply to RCW 28A.01.130, 28A.02.201, 28A.41.130, 28A.41.140, 28A.41.145, 28A.41.160, 28A.41.162, 28A.44.040, 28A.44.080, 28A.44.085, 28A.45.050, 28A.58.190, 28A.58.750, 28A.58.752, 28A.58.754, 28A.58.756, 28A.58.758, 28A.58.760, 36.33.110 and to the repeal of RCW 28A.45.040 and 28A.67.100.

28A.58.752 Basic Education Act of 1977—Goal. (Effective September 1, 1978.) The goal of the Basic Education Act for the schools of the state of Washington set forth in this 1977 amendatory act shall be to provide students with the opportunity to achieve those skills which are generally recognized as requisite to learning. Those skills shall include the ability:

(1) To distinguish, interpret and make use of words, numbers and other symbols, including sound, colors, shapes and textures;

(2) To organize words and other symbols into acceptable verbal and nonverbal forms of expression, and numbers into their appropriate functions;

(3) To perform intellectual functions such as problem solving, decision making, goal setting, selecting, planning, predicting, experimenting, ordering and evaluating; and

(4) To use various muscles necessary for coordinating physical and mental functions. [1977 1st ex.s. c 359 § 2.]

Reviser's note: "this 1977 amendatory act", see notes following RCW 28A.58.750 relating to 1977 1st ex.s. c 359.

Effective date—**Severability**—1977 1st ex.s. c 359: See notes following RCW 28A.58.750.

28A.58.754 Basic Education Act of 1977—Definitions—Program requirements—Program accessibility—Rules and regulations. (Effective September 1, 1978.) (1) For the purposes of this section and RCW 28A.41.130 and 28A.41.140:

(a) The term "total program hour offering" shall mean those hours when students are provided the opportunity to engage in educational activity planned by and

under the direction of school district staff, as directed by the administration and board of directors of the district, inclusive of intermissions for class changes and recess and exclusive of intermission for meals.

(b) "Instruction in work skills" shall include the instruction of industrial arts, home and family life education, business and office education, distributive education, agricultural education, health occupations education, vocational education, trade and industrial education, technical education and career education, and shall include career orientation.

(2) Satisfaction of the basic education goal identified in RCW 28A.58.752 shall be considered to be implemented by the following program requirements:

(a) Each school district shall make available to students in kindergarten at least a total program offering of four hundred fifty hours. The program shall include reading, arithmetic, language skills and such other subjects and such activities as the school district shall determine to be appropriate for the education of the school district's students enrolled in such program;

(b) Each school district shall make available to students in grades one through three, at least a total program hour offering of two thousand seven hundred hours. A minimum of ninety-five percent of the total program hour offerings shall be in the basic skills areas of reading/language arts, mathematics, social studies, science, music, art, health and physical education. The remaining five percent of the total program hour offerings may include foreign languages, or such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades;

(c) Each school district shall make available to students in grades four through six at least a total program hour offering of two thousand nine hundred seventy hours. A minimum of ninety percent of the total program hour offerings shall be in the basic skills areas of reading/language arts, mathematics, social studies, science, music, art, health and physical education. A minimum of five percent of the total program hour offerings shall be in the area of work skills. The remaining five percent of the total program hour offerings may include foreign languages, or such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades;

(d) Each school district shall make available to students in grades seven through eight, at least a total program hour offering of one thousand nine hundred eighty hours. A minimum of eighty-five percent of the total program hour offerings shall be in the basic skills areas of reading/language arts, mathematics, social studies, science, music, art, health and physical education. A minimum of ten percent of the total program hour offerings shall be in the area of work skills. The remaining five percent of the total program hour offerings may include foreign language, or such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades;

(e) Each school district shall make available to students in grades nine through twelve at least a total program hour offering of four thousand three hundred twenty hours. A minimum of sixty percent of the total program hour offerings shall be in the basic skills areas of language arts, mathematics, social studies, science, music, art, health and physical education. A minimum of twenty percent of the total program hour offerings shall be in the area of work skills. The remaining twenty percent of the total program hour offerings may include traffic safety, foreign language, or such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades, with not less than one-half thereof in basic skills and/or work skills.

Nothing contained in subsection (2) of this section shall be construed to require individual students to attend school for any particular number of hours per day or to take any particular courses.

Each school district's basic educational program shall be accessible to all students between the ages of five and twenty-one years of age and shall consist of a minimum of one hundred eighty school days per school year in such grades as are conducted by a school district, and one hundred eighty half-days of instruction, or equivalent, in kindergarten. The state board of education pursuant to its authority in RCW 28A.04.120 and 28A.41.130, as now or hereafter amended, shall adopt the necessary rules and regulations to ensure program compliance with the provisions of this section. [1977 1st ex.s. c 359 § 3.]

Effective date—Severability—1977 1st ex.s. c 359: See notes following RCW 28A.58.750.

Basic Education Act of 1977—Rules adopted pursuant to as subject to legislative review: RCW 28A.58.756.

28A.58.756 Basic Education Act of 1977—Rules adopted pursuant to as subject to legislative review. (Effective September 1, 1978.) Rules and regulations adopted by the state board of education and superintendent of public instruction pursuant to the provisions of this 1977 amendatory act shall be subject to periodic review by the legislature. [1977 1st ex.s. c 359 § 16.]

Reviser's note: "this 1977 amendatory act", see notes following RCW 28A.58.750.

Effective date—Severability—1977 1st ex.s. c 359: See notes following RCW 28A.58.750.

28A.58.758 Basic Education Act of 1977—District school directors as accountable for proper operation of district—Scope—Responsibilities—Publication of guide. (Effective September 1, 1978.) (1) It is the intent and purpose of this section to guarantee that each common school district board of directors, whether or not acting through its respective administrative staff, be held accountable for the proper operation of their district to the local community and its electorate. In accordance with the provisions of Title 28A RCW, as now or hereafter amended, each common school district board of directors shall be vested with the final responsibility for the setting of policies ensuring quality in the content and extent of its educational program and that

such program meet the individual and collective needs of the particular students enrolled therein.

(2) In conformance with the provisions of Title 28A RCW, as now or hereafter amended, it shall be the responsibility of each common school district board of directors, acting through its respective administrative staff, to:

(a) Establish performance criteria and an evaluation process for its certificated personnel, including administrative staff, and for all programs constituting a part of such district's curriculum.

(b) Determine the final assignment of staff, certificated or classified, according to board enumerated classroom and program needs.

(c) Determine the amount of instructional hours necessary for any student to acquire a quality education in such district, in not less than an amount otherwise required in RCW 28A.58.754, or rules and regulations of the state board of education.

(d) Determine the allocation of staff time, whether certificated or classified.

(e) Establish final curriculum standards consistent with law and rules and regulations of the state board of education, relevant to the particular needs of district students or the unusual characteristics of the district, and ensuring a quality education for each student in the district.

(f) Evaluate teaching materials, including text books, teaching aids, handouts, or other printed material, in public hearing upon complaint by parents, guardians or custodians of students who consider dissemination of such material to students objectionable.

(3) In keeping with the accountability purpose expressed in this section and to insure that the local community and electorate have access to information on the educational programs in the school districts, each school district's board of directors shall annually publish a descriptive guide to the district's common schools. This guide shall be made available at each school in the district for examination by the public. The guide shall include, but not be limited to, the following:

(a) Criteria used for written evaluations of staff members pursuant to RCW 28A.67.065.

(b) A summary of program objectives pursuant to RCW 28A.58.090.

(c) Results of comparable testing for all schools within the district.

(d) Budget information which will include the following:

(i) Student attendance.

(ii) Number of full time equivalent personnel per school in the district itemized according to classroom teachers, instructional support, building and central administration and support services, including itemization of such personnel by program.

(iii) Number of full time equivalent personnel assigned in the district to central administrative offices, itemized according to instructional support, building and central administration, and support services, including itemization of such personnel by program.

(iv) Total number of full time equivalent personnel itemized by classroom teachers, instructional support,

building and central administration, and support services, including itemization of such personnel by program.

(v) Special levy budget request presented by program and expenditure for purposes over and above those requirements identified in RCW 28A.58.754. [1977 1st ex.s. c 359 § 18.]

Effective date—Severability—1977 1st ex.s. c 359: See notes following RCW 28A.58.750.

28A.58.760 Basic Education Act of 1977—Certificated teaching and administrative staff as accountable for classroom teaching—Scope—Responsibilities—Penalty. (Effective September 1, 1978.) (1) It is the intended purpose of this section to guarantee that the certificated teaching and administrative staff in each common school district be held accountable for the proper and efficient conduct of classroom teaching in their school which will meet the individual and collective needs of the particular students enrolled therein.

(2) In conformance with the other provisions of Title 28A RCW, it shall be the responsibility of the certificated teaching and administrative staff in each common school to:

(a) Implement the district's prescribed curriculum and enforce, within their area of responsibility, the rules and regulations of the school district, the state superintendent of public instruction, and the state board of education, taking into due consideration individual differences among students, and maintain and render appropriate records and reports pertaining thereto.

(b) Maintain good order and discipline in their classrooms at all times.

(c) Hold students to a strict accountability while in school for any disorderly conduct while under their supervision.

(d) Require excuses from the parents, guardians, or custodians of minor students in all cases of absence, tardiness, or early dismissal.

(e) Give careful attention to the maintenance of a healthful atmosphere in the classroom.

(f) Give careful attention to the safety of the student in the classroom and report any doubtful or unsafe conditions to the building administrator.

(g) Evaluate each student's educational growth and development and make periodic reports thereon to parents, guardians, or custodians and to school administrators.

Failure to carry out such requirements as set forth in subsection (2) (a) through (g) above shall constitute sufficient cause for discharge of any member of such teaching or administrative staff. [1977 1st ex.s. c 359 § 19.]

Effective date—Severability—1977 1st ex.s. c 359: See notes following RCW 28A.58.750.

Chapter 28A.65

SCHOOL DISTRICT BUDGETS

Sections

28A.65.080 Repealed.

[1977 RCW Supp—page 202]

28A.65.100 Repealed.
28A.65.120 Repealed.
28A.65.150 Repealed.

Budget information to be included in guide: RCW 28A.58.758.

28A.65.080 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.65.100 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.65.120 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.65.150 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 28A.67

TEACHERS—GENERAL PROVISIONS

Sections

28A.67.020 Qualifications—Citizenship requirement—Permits for nonimmigrant aliens or aliens—Standard certificate for aliens, when—Oath required.

28A.67.065 Minimum criteria for the evaluation of certificated employees, including administrators—Procedure—Scope—Penalty.

28A.67.100 Repealed.

Certificated teaching and administrative staff as accountable for classroom teaching—Scope—Responsibilities—Penalty: RCW 28A.58.760.

28A.67.020 Qualifications—Citizenship requirement—Permits for nonimmigrant aliens or aliens—Standard certificate for aliens, when—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, and has declared his intention of becoming a citizen of the United States of America: *Provided further*, That after a one year probationary period the superintendent of public instruction, at the request of the school district which employed such teacher on a permit, may grant to an alien whose qualifications have been approved by the state board of education a standard certificate to teach in the common schools of this state: *Provided further*, That the superintendent of public instruction may grant to a nonimmigrant 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.

Before such alien shall be granted a temporary permit he shall be required to subscribe to an oath or affirmation in writing as follows: I do solemnly swear (or affirm) that I will support the Constitution and laws of the United States and the Constitution and laws of the state of Washington; that I do not advocate the overthrow, destruction, or alteration of the constitutional form of government of the United States or of the state of Washington or any political subdivision of either of them. 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. [1977 1st ex.s. c 340 § 1; 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.67.065 Minimum criteria for the evaluation of certificated employees, including administrators—Procedure—Scope—Penalty.

Criteria used for evaluation of staff members to be included in guide: RCW 28A.58.758.

28A.67.100 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 28A.71

TEACHERS' INSTITUTES, WORKSHOPS AND OTHER IN-SERVICE TRAINING

Sections

28A.71.200 In-Service Training Act of 1977—Purpose.
28A.71.210 In-Service Training Act of 1977—Administration of funds—Rules—Local district needs assessment—In-service training task force.

28A.71.200 In-Service Training Act of 1977—Purpose. In order to provide for the improvement of the instructional process in the public schools and maintain and improve the skills of public school certificated and classified personnel, there is hereby adopted an act to be known as the "In-Service Training Act of 1977" [1977 1st ex.s. c 189 § 1.]

Severability—1977 1st ex.s. c 189: "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." [1977 1st ex.s. c 189 § 4.] This applies to RCW 28A.71.200 and 28A.71.210.

28A.71.210 In-Service Training Act of 1977—Administration of funds—Rules—Local district needs assessment—In-service training task force. The superintendent of public instruction is hereby empowered to administer funds now or hereafter appropriated for the conduct of in-service training programs for public school certificated and classified personnel and to supervise the conduct of such programs. The superintendent of public instruction shall adopt rules in accordance with chapter 34.04 RCW that provide for the allocation of such funds to public school district or educational service district applicants on such conditions and for such training programs as he or she deems to be in the best interest of the public school system: *Provided*, That each district requesting such funds shall have conducted a district needs assessment of certificated and classified personnel to determine identified strengths and weakness of personnel that would be strengthened by such in-service training program: *Provided, further*, That each school district or educational service district requesting funds shall have established an in-service training task force and demonstrated to the superintendent of public

instruction that the task force has participated in and is supportive of the request for funding of the particular in-service training program. The task force required by this section shall be composed of representatives from the ranks of administrators, building principals, teachers, classified and support personnel employed by the applicant school district or educational service district, from the public, and from an institution(s) of higher education, in such numbers as shall be established by the superintendent of public instruction: *Provided further*, That the task force in each district shall be appointed by the school board in each district from residents of the district, and that no less than sixty percent of the members thereof shall be public members not employed by the school district. [1977 1st ex.s. c 189 § 2.]

Severability—1977 1st ex.s. c 189: See notes following RCW 28A.71.200.

Chapter 28A.87

OFFENSES RELATING TO SCHOOLS, SCHOOL PERSONNEL—PENALTIES

Certificated teaching and administrative staff as accountable for classroom teaching—Scope—Responsibilities—Penalty: RCW 28A.58.760.

Chapter 28A.91

WASHINGTON STATE EDUCATIONAL TELEVISION COMMISSION

Sections

28A.91.060 Commission duties.

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 as shall be consistent with the public interest and the rules and regulations promulgated by the United States office of health, education and welfare. [1977 c 75 § 19; 1969 ex.s. c 223 § 28A.91.060. Prior: 1965 ex.s. c 129 § 6. Formerly RCW 28.91.060.]

Chapter 28A.97

EDUCATIONAL CLINICS

Sections

28A.97.010 "Educational clinic", "basic academic skills", defined—Certification as educational clinic and withdrawal thereof.
28A.97.020 Reimbursement only for eligible common school dropouts.
28A.97.030 Reentry of prior dropouts into common schools, rules—Eligibility for GED test.
28A.97.040 Reimbursement procedure—Schedule of fees, revision—Priority for payment—Review of clinic's records.
28A.97.050 Rules and regulations—Legislative review of criteria utilized for reimbursement purposes.

28A.97.010 "Educational clinic", "basic academic skills", defined—Certification as educational clinic and

withdrawal thereof. (1) As used in this chapter, unless the context thereof shall clearly indicate to the contrary:

Educational clinic means any private school operated on a profit or nonprofit basis which does the following:

(a) Is devoted to the teaching of basic academic skills, including specific attention to improvement of student motivation for achieving, and employment orientation.

(b) Operates on a clinical, client centered basis. This shall include, but not be limited to, performing diagnosis of individual educational abilities, determination and setting of individual goals, prescribing and providing individual courses of instruction therefor, and evaluation of each individual client's progress in his or her educational program.

(c) Conducts courses of instruction by professionally trained personnel certificated by the state board of education according to rules and regulations promulgated for the purposes of this chapter and providing, for certification purposes, that a year's teaching experience in an educational clinic shall be deemed equal to a year's teaching experience in a common or private school.

(2) For purposes of this chapter, basic academic skills shall include the study of mathematics, speech, language, reading and composition, science, history, literature and political science or civics; it shall not include courses of a vocational training nature and shall not include courses deemed nonessential to the accrediting of the common schools or the approval of private schools under RCW 28A.04.120.

(3) The state board of education shall certify an education clinic only upon application and (1) determination that such school comes within the definition thereof as set forth in subsection (1) above and (2) demonstration on the basis of actual educational performance of such applicants' students which shows after consideration of their students' backgrounds, educational gains that are a direct result of the applicants' educational program. Such certification may be withdrawn if the board finds that a clinic fails to provide adequate instruction in basic academic skills. No educational clinic certified by the state board of education pursuant to this section shall be deemed a common school under RCW 28A.01.060 or a private school for the purposes of RCW 28A.02.201 through 28A.02.250, or proprietary school under chapter 18.82 RCW. [1977 1st ex.s. c 341 § 1.]

Severability—1977 1st ex.s. c 341: "If any provision of this 1977 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." [1977 1st ex.s. c 341 § 7.] This applies to RCW 28A.97.010, 28A.97.020, 28A.97.030, 28A.97.040 and 28A.97.050.

28A.97.020 Reimbursement only for eligible common school dropouts. Only eligible common school dropouts shall be enrolled in a certified educational clinic for reimbursement by the superintendent of public instruction as provided in RCW 28A.97.040. No person shall be considered an eligible common school dropout who (1) has completed high school, (2) has passed his eighteenth birthday, or (3) until three months has passed after he or she has dropped out of any common school,

unless such clinic has been requested to admit such person by written communication of the board of directors or the superintendent of that common school or unless such person is unable to attend a particular common school because of disciplinary reasons, including suspension and/or expulsion therefrom. [1977 1st ex.s. c 341 § 2.]

Severability—1977 1st ex.s. c 341: See note following RCW 28A.97.010.

28A.97.030 Reentry of prior dropouts into common schools, rules—Eligibility for GED test. The superintendent of public instruction shall adopt, by rules, policies and procedures to permit a prior common school dropout to reenter at the grade level appropriate to such individual's ability: *Provided*, That such individual shall be placed with the class he would be in had he not dropped out and graduate with that class, if his ability so permits notwithstanding any loss of credits prior to reentry and if such student earns credits at the normal rate subsequent to reentry.

Notwithstanding any other provision of law, any certified educational clinic student, upon completion of an individual student program and irrespective of age, shall be eligible to take the general educational development test as given throughout the state. [1977 1st ex.s. c 341 § 3.]

Severability—1977 1st ex.s. c 341: See note following RCW 28A.97.010.

28A.97.040 Reimbursement procedure—Schedule of fees, revision—Priority for payment—Review of clinic's records. From funds appropriated for that purpose, the superintendent of public instruction shall pay to a certified clinic on a monthly basis for each student enrolled in compliance with RCW 28A.97.020, fees in accordance with the following conditions:

(1) (a) The fee for the initial diagnostic procedure shall be fifty dollars per student, and hourly fees for each student shall be sixteen dollars if the class size is no greater than one, ten dollars if the class size is at least two and no greater than five, and five dollars if the class size is at least six: *Provided*, That revisions in such fees proposed by an education clinic shall become effective after thirty days notice unless the superintendent finds such a revision is unreasonable in which case the revision shall not take effect: *Provided further*, That an education clinic may, within fifteen days after such a finding by the superintendent, file notification of appeal with the state board of education which shall, no later than its second regularly scheduled meeting following notification of such appeal, either grant or deny the proposed revision.

(b) Absences will be paid for, but after three consecutive absences or two unexcused absences in any one week, the student's enrollment will be terminated and no further fees will be payable: *Provided*, That students may be re-enrolled at any time.

(c) No clinic shall make any charge to any student, or his parent, guardian or custodian, for whom a fee is being received under the provisions of this section.

(2) Payments shall be made from available funds first to those clinic(s) which have in the judgment of the superintendent demonstrated superior performance based upon consideration of students' educational gains taking into account such students' backgrounds, and upon consideration of cost effectiveness. In considering the cost effectiveness of nonprofit clinics the superintendent shall take into account not only payments made under this section but also factors such as tax exemptions, direct and indirect subsidies or any other cost to taxpayers at any level of government which result from such nonprofit status.

(3) To be eligible for such payment, every such clinic, without prior notice, shall permit a review of its accounting records by personnel of the state auditor during normal business hours.

(4) If total funds for this purpose approach depletion, the superintendent shall notify the clinics of the date after which further funds for reimbursement of the clinics' services will be exhausted. [1977 1st ex.s. c 341 § 4.]

Severability—1977 1st ex.s. c 341: See note following RCW 28A.97.010.

28A.97.050 Rules and regulations—Legislative review of criteria utilized for reimbursement purposes. In accordance with chapter 34.04 RCW, the administrative procedure act, the state board of education with respect to the matter of certification, and the superintendent of public instruction with respect to all other matters, shall have the power and duty to make the necessary rules and regulations to carry out the purpose and intent of this chapter.

Criteria as promulgated by the state board of education or superintendent of public instruction for determining if any educational clinic is providing adequate instruction in basic academic skills or demonstrating superior performance in student educational gains for funding under RCW 28A.97.040 shall be subject to review by four members of the legislature, one from each caucus of each house, including the chairpersons of the respective education committees. [1977 1st ex.s. c 341 § 5.]

Severability—1977 1st ex.s. c 341: See note following RCW 28A.97.010.

Title 28B

HIGHER EDUCATION

Chapters

28B.10	Colleges and universities generally.
28B.14B	1977 Bond issue for capital improvements for institutions of higher education.
28B.14C	1977 Bond act for the refunding of outstanding limited obligation revenue bonds of institutions of higher education.
28B.15	College and university fees.
28B.16	State higher education personnel law.
28B.19	State higher education administrative procedure act.

28B.20	University of Washington.
28B.30	Washington State University.
28B.31	1977 Washington State University buildings and facilities financing act.
28B.35	Regional universities.
28B.40	The Evergreen State College.
28B.50	Community college act of 1967 (and community colleges generally).
28B.56	1972 Community colleges facilities aid—Bond issue.
28B.57	1975 Community college special capital projects bond act.
28B.59B	1977 Community college capital projects bond act.
28B.80	Council for postsecondary education in the state of Washington.
28B.81	Commission on higher education.

Chapter 28B.10

COLLEGES AND UNIVERSITIES GENERALLY

Sections

28B.10.015	Repealed.
28B.10.016	"State universities", "regional universities", "state college", "institutions of higher education" and "post-secondary institutions" defined.
28B.10.020	Acquisition of property by universities and The Evergreen State College.
28B.10.025	Purchases of works of art—Procedure.
28B.10.050	Entrance requirements.
28B.10.140	Teachers', principals' and superintendents' training courses.
28B.10.280	Student loans—Federal student aid programs.
28B.10.290	Use of state bank credit cards.
28B.10.293	Additional charges authorized in collection of debts—Public and private institutions of higher education.
28B.10.300	Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College—Authorized.
28B.10.305	through 28B.10.330 Caption revised.
28B.10.350	Construction work, remodeling or demolition, bids when—Waiver—Prevailing rate of wage—Universities and The Evergreen State College.
28B.10.400	Annuities and retirement income plans—Authorized.
28B.10.405	Annuities and retirement income plans—Contributions by faculty and employees.
28B.10.410	Annuities and retirement income plans—Limitation on institution's contribution.
28B.10.415	Annuities and retirement income plans—Limitation on annuity or retirement income plan payment.
28B.10.417	Annuities and retirement income plans—Rights and duties of faculty or employees with Washington state teachers' retirement system credit—Regional universities and The Evergreen State College.
28B.10.420	Annuities and retirement income plans—Retirement at age seventy (as amended by 1977 1st ex.s. c 169).
28B.10.420	Annuities and retirement income plans—Retirement at age seventy—Reemployment, when (as amended by 1977 1st ex.s. c 276).
28B.10.500	Removal of regents or trustees from universities and The Evergreen State College.
28B.10.520	Regents and trustees—Oaths.
28B.10.525	Regents and trustees—Travel expenses (as amended by 1977 1st ex.s. c 118).
28B.10.525	Regents and trustees—Travel expenses (as amended by 1977 1st ex.s. c 169).

28B.10.550	Police forces for universities and The Evergreen State College—Authorized.
28B.10.555	Caption revised.
28B.10.560	Police forces for universities and The Evergreen State College—Establishment of traffic regulations.
28B.10.565	Caption revised.
28B.10.567	Police forces for universities and The Evergreen State College—Benefits for duty-related death, disability or injury.
28B.10.600	District schools may be used for teacher training by universities and The Evergreen State College—Authority.
28B.10.605	District schools may be used for teacher training by universities and The Evergreen State College—Agreement for financing, organization, etc.
28B.10.640	Student associations to contract for certain purchases, concessions, printing, etc.—Procedure.
28B.10.650	Sabbaticals and other leaves for faculty members of universities and The Evergreen State College (as amended by 1977 1st ex.s. c 169).
28B.10.650	Remunerated professional leaves for faculty members of universities, state colleges and community colleges—Conditions (as amended by 1977 1st ex.s. c 173).
28B.10.700	Physical education in curriculum.
28B.10.703	Programs for intercollegiate athletic competition—Authorized.

28B.10.015 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.10.016 "State universities", "regional universities", "state college", "institutions of higher education" and "postsecondary institutions" defined. For the purposes of this title:

(1) "State universities" means the University of Washington and Washington State University.

(2) "Regional universities" means Western Washington University at Bellingham, Central Washington University at Ellensburg, and Eastern Washington University at Cheney.

(3) "State college" means The Evergreen State College in Thurston county.

(4) "Institutions of higher education" or "postsecondary institutions" means the state universities, the regional universities, The Evergreen State College, and the community colleges. [1977 1st ex.s. c 169 § 1.]

Tenure or terms, rights, including property rights, not affected—1977 1st ex.s. c 169. "Nothing in this 1977 amendatory act shall affect the tenure of or the terms of any officials, administrative assistants, faculty members, or other employees of any institution of higher education within this state, whether such institutions have hereinabove in this 1977 amendatory act been redesignated as regional universities or otherwise. Nothing in this 1977 amendatory act shall affect any rights, whether to property or otherwise, existing on or after the effective date of this 1977 amendatory act, the intent of the legislature being solely to redesignate as regional universities certain institutions of higher education within this state." [1977 1st ex.s. c 169 § 113.]

Statute and RCW designations affected—1977 1st ex.s. c 169. "It is the intent of the legislature that after the effective date of this 1977 amendatory act, where the names "Western Washington State College", "Central Washington State College", or "Eastern Washington State College" are used in any bill enacted by the legislature or found within the Revised Code of Washington, they shall mean "Western Washington University", "Central Washington University", and "Eastern Washington University", respectively." [1977 1st ex.s. c 169 § 114.]

Severability—1977 1st ex.s. c 169. "If any provision of this 1977 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." [1977 1st ex.s. c 169 § 116.]

The above annotations apply to RCW 17.08.020, 17.12.060, 17.24.110, 27.44.020, 28B.10.016, 28B.10.020, 28B.10.025, 28B.10.050, 28B.10.140, 28B.10.280, 28B.10.290, 28B.10.300, 28B.10.350, 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415, 28B.10.417, 28B.10.420, 28B.10.500, 28B.10.520, 28B.10.525, 28B.10.550, 28B.10.560, 28B.10.567, 28B.10.600, 28B.10.605, 28B.10.640, 28B.10.650, 28B.10.700, 28B.10.703, 28B.15.005, 28B.15.020, 28B.15.041, 28B.15.100, 28B.15.380, 28B.15.400, 28B.15.530, 28B.15.600, 28B.16.020, 28B.19.020, 28B.35.010, 28B.35.050, 28B.35.100, 28B.35.105, 28B.35.110, 28B.35.120, 28B.35.190, 28B.35.200, 28B.35.205, 28B.35.220, 28B.35.230, 28B.35.300, 28B.35.305, 28B.35.310, 28B.35.315, 28B.35.350, 28B.35.361, 28B.35.370, 28B.35.380, 28B.35.390, 28B.35.400, 28B.35.700, 28B.35.710, 28B.35.720, 28B.35.730, 28B.35.750, 28B.35.751, 28B.35.760, 28B.35.770, 28B.35.780, 28B.35.790, 28B.40.010, 28B.40.100, 28B.40.105, 28B.40.110, 28B.40.120, 28B.40.190, 28B.40.200, 28B.40.220, 28B.40.230, 28B.40.300, 28B.40.305, 28B.40.310, 28B.40.315, 28B.40.350, 28B.40.361, 28B.40.370, 28B.40.380, 28B.40.390, 28B.80.040, 39.90.060, 40.04.040, 40.04.090, 40.06.040, 41.40.515, 41.40.516, 41.40.517, 41.40.519, 41.40.520, 41.40.521, 41.60.010, 43.79.150, 43.79.180, 43.79.304, 43.79.314, 43.79.324, 43.88.195, 69.32.030, 82.12.030, 87.25.050, and to the repeal of RCW 28B.10.015, 28B.40.115, 28B.40.130, 28B.40.205, 28B.40.225, 28B.40.400, 43.92.050 and 43.125.030.

28B.10.020 Acquisition of property by universities and The Evergreen State College. The boards of regents of the University of Washington and Washington State University, respectively, and the boards of trustees of Central Washington University, Eastern Washington University, Western Washington University, 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. [1977 1st ex.s. c 169 § 7; 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.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

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 regional universities, The Evergreen State College and the 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. [1977 1st ex.s. c 169 § 8; 1974 ex.s. c 176 § 4.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

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.

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, the regional universities, and The Evergreen State College shall determine entrance requirements for their respective institutions of higher education. [1977 1st ex.s. c 169 § 9; 1969 ex.s. c 223 § 28B.10.050. Prior: 1917 c 10 § 9; RRS § 4540. Formerly RCW 28.76.050.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.10.140 Teachers', principals' and superintendents' training courses. The University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, 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. [1977 1st ex.s. c 169 § 10; 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.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.10.280 Student loans—Federal student aid programs. The boards of regents of the state universities and the boards of trustees of regional universities, The Evergreen State College, 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. [1977 1st ex.s. c 169 § 11; 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—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

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.10.290 Use of state bank credit cards. Any state university, regional university, The Evergreen 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. [1977 1st ex.s. c 169 § 12; 1969 ex.s. c 269 § 10. Formerly RCW 28.76.560.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.10.293 Additional charges authorized in collection of debts—Public and private institutions of higher education. Each state public or private institution of higher education may, in the control and collection of any debt or claim due owing to it, impose reasonable financing and late charges, as well as reasonable costs and expenses incurred in the collection of such debts, if provided for in the note or agreement signed by the debtor. [1977 1st ex.s. c 18 § 1.]

28B.10.300 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College—Authorized. The boards of regents of the state universities and the boards of trustees of the regional universities and The Evergreen State College 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. [1977 1st ex.s. c 169 § 13; 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.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Prior bonds validated: See 1961 c 229 § 10.

Reviser's note: The following captions are revised to conform to the 1977 amendment to RCW 28B.10.300:

28B.10.305 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College—Use of lands, buildings, and facilities.

28B.10.310 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College—Bonds—Sale, interest, form, payment, term, execution, negotiability, etc.

28B.10.315 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College—Funding, refunding bonds.

28B.10.320 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College—Authority to be liberally construed—Future acquisitions and installations may be pledged for payment.

28B.10.325 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College—Rate of interest on obligations.

28B.10.330 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College—Nonliability of state.

28B.10.350 Construction work, remodeling or demolition, bids when—Waiver—Prevailing rate of wage—Universities and The Evergreen State College. When the cost to The Evergreen State College, any regional university, 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 and the contract shall be awarded to the lowest responsible bidder if in accordance with the bid specifications: *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 Evergreen State College, regional university, 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 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. [1977 1st ex.s. c 169 § 14; 1971 ex.s. c 258 § 1.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

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 regional universities and of The Evergreen State College, 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. [1977 1st ex.s. c 169 § 15; 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—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

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 (1973 1st ex.s. c 149) 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 regional universities and of The Evergreen State College, 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. [1977 1st ex.s. c 169 § 16; 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—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

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 regional universities and of The Evergreen State College, 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 now or hereafter amended. 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. [1977 1st ex.s. c 169 § 17; 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—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

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 the regional universities and of The Evergreen State College, 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 now or hereafter amended, multiplied by the number of years of full time service rendered by such person. [1977 1st ex.s. c 169 § 18; 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—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

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—Regional universities and The Evergreen State College.

(1) A faculty member or other employee designated by the board of trustees of the applicable regional university or of The Evergreen 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 or her accumulated contributions in the teachers' retirement fund. Upon his or her 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 or her accumulated contributions at his or her 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 or she 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 the applicable regional university or of The Evergreen 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 or her election and at any time, on and after midnight June 10, 1959, terminate his or her membership in the Washington state teachers' retirement system and withdraw his or her 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. [1977 1st ex.s. c 169 § 19; 1971 ex.s. c 261 § 5.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

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 (as amended by 1977 1st ex.s. c 169). Faculty members or other employees designated by the boards of regents of the state universities, the boards of trustees of the regional universities or of The Evergreen State College, or the state board for community college education pursuant to RCW 28B.10.400 through 28B.10.420 as now or hereafter amended 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. [1977 1st ex.s. c 169 § 20; 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—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.10.420 Annuities and retirement income plans—Retirement at age seventy—Reemployment, when (as amended by 1977 1st ex.s. c 276). (1) Except as provided otherwise in subsection (2) of this section, 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.

(2) As provided in this subsection, the board of regents of a state university, the board of trustees of a state college, or the state board for community college education may reemploy any person who is "retired" pursuant to subsection (1) of this section, who applies for reemployment and who has reached seventy years of age on or after July 1, 1970. The following provisions shall govern such reemployment:

(a) Prior to the reemployment, the board of regents, board of trustees, or state board shall have found that the person possesses outstanding qualifications which in the judgment of the board would permit the person to continue valuable service to the institution.

(b) The period of reemployment shall not be counted as service under, or result in any eligibility for benefits or increased benefits under, any state authorized or supported annuity or retirement income plan. Reemployment shall not result in the reemployed person or employer making any contributions to any such plan.

(c) No person may be reemployed on a full time basis if such person is receiving benefits under any state authorized or supported annuity or retirement income plan. The reemployment of any person on a full time basis shall be immediately terminated upon the person's obtaining of any such benefits.

(d) A person may be reemployed on a part time basis and receive or continue to receive any benefits for which such person is eligible under any state authorized or supported annuity or retirement income plan. Such part time work, however, shall not exceed forty percent of full time employment during any year.

(e) A person reemployed pursuant to this section shall comply with all conditions of reemployment and all rules providing for the administration of this subsection which are prescribed or adopted by the board of regents, or board of trustees, or by the state board for community college education. [1977 1st ex.s. c 276 § 1; 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.]

Reviser's note: RCW 28B.10.420 was amended twice during the 1977 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

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.

"State universities", "regional universities", "state college", "institutions of higher education" and "postsecondary institutions" defined: RCW 28B.10.016.

28B.10.500 Removal of regents or trustees from universities and The Evergreen State College. No regent of the state universities, or trustee of the regional universities or of The Evergreen State College 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. [1977 1st ex.s. c 169 § 21; 1969 ex.s. c 223 § 28B.10.500. Prior: 1943 c 59 § 1; Rem. Supp. 1943 § 4603-1. Formerly RCW 28.76.290.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.10.520 Regents and trustees—Oaths. Each member of a board of regents or board of trustees of a university or other 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. [1977 1st ex.s. c 169 § 22; 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.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.10.525 Regents and trustees—Travel expenses (as amended by 1977 1st ex.s. c 118). 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 portion thereof in which he or she is actually engaged in business of the board. [1977 1st ex.s. c 118 § 1; 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.]

28B.10.525 Regents and trustees—Travel expenses (as amended by 1977 1st ex.s. c 169). Each member of a board of regents or board of trustees of a university or other 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. [1977 1st ex.s. c 169 § 23; 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.]

Reviser's note: RCW 28B.10.525 was amended twice during the 1977 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

28B.10.550 Police forces for universities and The Evergreen State College—Authorized. The boards of regents of the state universities, and the boards of trustees of the regional universities or of The Evergreen State College, 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. [1977 1st ex.s. c 169 § 24; 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.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Reviser's note: The following caption is revised to conform to the 1977 amendment to RCW 28B.10.550:

28B.10.555 Police forces for universities and The Evergreen State College—Powers.

28B.10.560 Police forces for universities and The Evergreen State College—Establishment of traffic regulations. The boards of regents of the state universities, and the boards of trustees of the regional universities and of The Evergreen State College, 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. [1977 1st ex.s. c 169 § 25; 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.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Reviser's note: The following caption is revised to conform to the 1977 amendment to RCW 28B.10.550:

28B.10.565 Police forces for universities and The Evergreen State College—Penalty.

28B.10.567 Police forces for universities and The Evergreen State College—Benefits for duty-related death, disability or injury. The boards of regents of the state universities and board of trustees of the regional universities and the board of trustees of The Evergreen State College 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. [1977 1st ex.s. c 169 § 26; 1975-'76 2nd ex.s. c 81 § 1.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169:
See notes following RCW 28B.10.016.

28B.10.600 District schools may be used for teacher training by universities and The Evergreen State College—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 regional universities and of The Evergreen State College are authorized to enter into similar agreements for the purpose of training students at their institutions as teachers, supervisors, or principals. [1977 1st ex.s. c 169 § 27; 1969 ex.s. c 223 § 28B.10.600. Prior: 1949 c 182 § 1; Rem. Supp. 1949 § 4543-40. Formerly RCW 28.76.350.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169:
See notes following RCW 28B.10.016.

Regional university model schools and training departments: RCW 28B.35.300-28B.35.315.

The Evergreen State College 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 The Evergreen State College—Agreement for financing, organization, etc. The financing and the method of organization and administration of such a training program operated by agreement between a state university board of regents or a regional university board of trustees or The Evergreen State College board of trustees, and the board of directors of any school district, shall be determined by agreement between them. [1977 1st ex.s. c 169 § 28; 1969 ex.s. c 223 § 28B.10.605. Prior: 1949 c 182 § 2; Rem. Supp. 1949 § 4543-41. Formerly RCW 28.76.360.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169:
See notes following RCW 28B.10.016.

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 regional universities and of The Evergreen State College 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 regional universities or of The Evergreen State College or community colleges, or to printing done on presses owned or operated by their respective institutions. [1977 1st ex.s. c 169 § 29; 1969 ex.s. c 223 § 28B.10.640. Prior: 1967 ex.s. c 8 § 50; 1957 c 212 § 1. Formerly RCW 28.76.390.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169:
See notes following RCW 28B.10.016.

28B.10.650 Sabbaticals and other leaves for faculty members of universities and The Evergreen State College (as amended by 1977 1st ex.s. c 169). The boards of regents of the state universities and the boards of trustees of the regional universities and of The Evergreen State College 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. [1977 1st ex.s. c 169 § 30; 1969 ex.s. c 223 § 28B.10.650. Prior: 1959 c 155 § 1. Formerly RCW 28.76.400.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169:
See notes following RCW 28B.10.016.

28B.10.650 Remunerated professional leaves for faculty members of universities, state colleges and community colleges—Conditions (as amended by 1977 1st ex.s. c 173). It is the intent of the legislature that when the state universities, state colleges, and community colleges grant professional leaves to faculty and exempt staff, such leaves be for the purpose of providing opportunities for study, research, and creative activities for the enhancement of the institution's instructional and research programs.

The boards of regents of the state universities, the boards of trustees of the state colleges and the board of trustees of each community college district may grant remunerated professional leaves to faculty members and exempt staff, as defined in RCW 28B.16.040, in accordance with regulations adopted by the respective governing boards for periods not to exceed twelve consecutive months in accordance with the following provisions:

(1) The remuneration from state general funds and general local funds for any such leave granted for any academic year shall not exceed the average of the highest quartile of a rank order of salaries of all full time teaching faculty holding academic year contracts or appointments at the institution or in the district.

(2) Remunerated professional leaves for a period of more or less than an academic year shall be compensated at rates not to exceed a proportional amount of the average salary as otherwise calculated for the purposes of subsection (1) hereof.

(3) The grant of any such professional leave shall be contingent upon a signed contractual agreement between the respective governing board and the recipient providing that the recipient shall return to the granting institution or district following his or her completion of such leave and serve in a professional status for a period commensurate with the amount of leave so granted. Failure to comply with the provisions of such signed agreement shall constitute an obligation of the recipient to repay to the institution any remuneration received from the institution during the leave.

(4) The aggregate cost of remunerated professional leaves awarded at the institution or district during any year, including the cost of replacement personnel, shall not exceed the cost of salaries which otherwise would have been paid to personnel on leaves: *Provided*, That this subsection shall not apply to any community college district with fewer than seventy-five full time faculty members and granting fewer than three individuals such leaves in any given year.

(5) The average number of annual remunerated professional leaves awarded at any such institution or district shall not exceed four percent of the total number of full time equivalent faculty, as defined by the office of program planning and fiscal management, who are engaged in instruction, and exempt staff as defined in RCW 28B.16.040.

(6) Negotiated agreements made in accordance with chapter 28B.52 RCW and entered into after the effective date of this 1977 amendatory act shall be in conformance with the provisions of this section.

(7) The respective institutions and districts shall annually report to the council for postsecondary education such information as the council deems necessary to determine compliance with the provisions of this section and the council for postsecondary education shall periodically report such information to the legislature. [1977 1st ex.s. c 173 § 1; 1969 ex.s. c 223 § 28B.10.650. Prior: 1959 c 155 § 1. Formerly RCW 28.76.400.]

Reviser's note: (1) "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

(2) "the effective date of this 1977 amendatory act", see note following.

Effective date—1977 1st ex.s. c 173: "This act shall take effect on July 1, 1977." [1977 1st ex.s. c 173 § 4.]

Reviser's note: 1977 1st ex.s. c 173 § 4, not containing an emergency clause in said effective date section, would take effect ninety days after adjournment sine die or September 21, 1977.

Severability—1977 1st ex.s. c 173: "If any provision of this 1977 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." [1977 1st ex.s. c 173 § 3.]

The above annotations apply to RCW 28B.10.650 and 28B.50.551.

Reviser's note: RCW 28B.10.650 was amended twice during the 1977 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

28B.10.700 Physical education in curriculum. The state board for community college education, the boards of trustees of the regional universities and of The Evergreen State College, 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. [1977 1st ex.s. c 169 § 31; 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.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.10.703 Programs for intercollegiate athletic competition—Authorized. The governing boards of each of the state universities, the regional universities, The Evergreen State College, 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. [1977 1st ex.s. c 169 § 32; 1971 ex.s. c 28 § 2.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Chapter 28B.14B

1977 BOND ISSUE FOR CAPITAL IMPROVEMENTS FOR INSTITUTIONS OF HIGHER EDUCATION

Sections

28B.14B.010	Bonds authorized—Amount—Conditions.
28B.14B.020	Bond anticipation notes—Authorized—Payment.
28B.14B.030	Form, terms, conditions, sale and covenants of bonds and notes.
28B.14B.040	Disposition of proceeds from sale of bonds and notes—Use.
28B.14B.050	State higher education bond retirement fund of 1977—Created—Purpose.
28B.14B.060	Bonds as legal investment for public funds.

28B.14B.010 Bonds authorized—Amount—Conditions. 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 nine million five hundred thousand dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation, and these 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. [1977 1st ex.s. c 345 § 1.]

Severability—1977 1st ex.s. c 345: "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." [1977 1st ex.s. c 345 § 8.] This

applies to RCW 28B.14B.010, 28B.14B.020, 28B.14B.030, 28B.14B.040, 28B.14B.050 and 28B.14B.060.

28B.14B.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.14B.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 of and redemption premium, if any, and interest on such notes shall be applied thereto when such bonds are issued. [1977 1st ex.s. c 345 § 2.]

Severability—1977 1st ex.s. c 345: See note following RCW 28B.14B.010.

28B.14B.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.14B.010 and 28B.14B.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. [1977 1st ex.s. c 345 § 3.]

Severability—1977 1st ex.s. c 345: See note following RCW 28B.14B.010.

28B.14B.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.14B.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. [1977 1st ex.s. c 345 § 4.]

Severability—1977 1st ex.s. c 345: See note following RCW 28B.14B.010.

28B.14B.050 State higher education bond retirement fund of 1977—Created—Purpose. The state higher education bond retirement fund of 1977 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 or, if the legislature so determines, for any bonds and notes hereafter authorized and issued for the institutions of higher education.

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. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state higher education bond retirement fund of 1977 an amount equal to the amount certified by the state finance committee to be due on such payment date. [1977 1st ex.s. c 345 § 5.]

Severability—1977 1st ex.s. c 345: See note following RCW 28B.14B.010.

28B.14B.060 Bonds as legal investment for public funds. The bonds authorized in RCW 28B.14B.010 through 28B.14B.060 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1977 1st ex.s. c 345 § 6.]

Severability—1977 1st ex.s. c 345: See note following RCW 28B.14B.010.

Chapter 28B.14C

1977 BOND ACT FOR THE REFUNDING OF OUTSTANDING LIMITED OBLIGATION REVENUE BONDS OF INSTITUTIONS OF HIGHER EDUCATION

Sections

28B.14C.010	Purpose—Bonds authorized—Amount.
28B.14C.020	Refunding as benefit to state.
28B.14C.030	Constitutional and statutory authority applicable— Specific state finance committee powers.
28B.14C.040	Limitation as to amount of bonds to be issued— Pledge of state's credit.
28B.14C.050	Disposition of proceeds of refunding issues.
28B.14C.060	Institutions of higher education refunding bond retirement fund of 1977—Created—Use—Investment of moneys in fund.
28B.14C.070	Chapter not exclusive method for payment of interest and principal on bonds.
28B.14C.080	Chapter as affecting University of Washington general tuition fee revenue bond redemption.
28B.14C.090	Chapter as affecting Washington State University general tuition fee revenue bond redemption.
28B.14C.100	Chapter as affecting Western Washington State College general tuition fee and normal school fund revenue bonds.
28B.14C.110	Chapter as affecting Eastern Washington State College general tuition fee and normal school fund revenue bonds.
28B.14C.120	Chapter as affecting Central Washington State College general tuition fee and normal school fund revenue bonds.
28B.14C.130	Chapter as affecting Evergreen State College general tuition fee revenue bonds.
28B.14C.140	Use limited when reserves transferred to state general fund.
28B.14C.900	Severability—1977 1st ex.s. c 354.

28B.14C.010 Purpose—Bonds authorized—Amount. The state finance committee is hereby authorized to issue from time to time on behalf of the state, general obligation bonds of the state in the amount of sixty million dollars, or so much thereof as may be

required to refund at or prior to maturity, all or some or any part of the various issues of outstanding limited obligation revenue bonds identified below, issued by various of the institutions of higher education, similarly identified:

(1) University of Washington general tuition fee revenue bonds, all series, aggregating \$28,850,000 in original principal amount;

(2) Washington State University general tuition fee revenue bonds and general tuition fee and scientific fund revenue bonds, all series, aggregating \$19,450,000 in original principal amount;

(3) Western Washington State College general tuition fee and normal school fund revenue bonds, all series, aggregating \$11,620,000 in original principal amount;

(4) Eastern Washington State College general tuition fee and normal school fund revenue bonds, all series, aggregating \$9,501,000 in original principal amount;

(5) Central Washington State College general tuition fee and normal school fund revenue bonds, all series, including refunding series, aggregating \$8,925,000 in original principal amount; and

(6) The Evergreen State College general tuition fee revenue bonds, all series, aggregating \$2,191,125 in original principal amount. [1977 1st ex.s. c 354 § 1.]

28B.14C.020 Refunding as benefit to state. The refunding authorized by this chapter is to be carried out primarily for the purpose of releasing for other needs of the state and its agencies the reserves presently required under existing covenants and statutes to secure payment of the various issues of the bonds to be refunded and, as such, is of substantial benefit to the state. [1977 1st ex.s. c 354 § 2.]

28B.14C.030 Constitutional and statutory authority applicable—Specific state finance committee powers. Subject to the specific requirements of RCW 28B.14C.010 through 28B.14C.140 and 28B.14C.900, such general obligation refunding bonds shall be issued and the refunding plan carried out in accordance with Article VIII, section 1, of the state Constitution, in accordance with chapter 39.42 RCW as presently in effect, and in accordance with the following sections of chapter 39.53 RCW as presently in effect, where applicable: RCW 39.53.010, 39.53.030, 39.53.060, 39.53.070, 39.53.100, and 39.53.110. The remainder of chapter 39.53 RCW shall not be applicable to the refunding authorized by this chapter.

In addition to the powers granted to the state finance committee in this subsection, said committee is hereby authorized (1) to determine the times and manner of redemption of the various bonds to be refunded, if any are to be redeemed prior to maturity; (2) to carry out all procedures necessary to accomplish the call for redemption and the subsequent redemption of the bonds to be refunded on behalf of the board of regents or the board of trustees, as the case may be, of each of the institutions which originally issued the bonds to be refunded; and (3) to determine the time, manner, and call premium, if any, for redemption of the refunding issue or

issues, if any of the bonds of such issue are to be redeemed prior to maturity. [1977 1st ex.s. c 354 § 3.]

Reviser's note: Phrases "as presently in effect" would, because of declaration of emergency in section 17 of 1977 1st ex.s. c 354, be deemed as of July 1, 1977.

28B.14C.040 Limitation as to amount of bonds to be issued—Pledge of state's credit. The amount of general obligation refunding bonds issued shall not exceed 1.05 times the amount which, taking into account amounts to be earned from the investment of the proceeds of such issue or issues, is required to pay the principal of, the interest on, premium of, if any, on the revenue bonds to be refunded with the proceeds of the refunding issue or issues.

Each bond issued pursuant to the provisions of this chapter shall contain a pledge of the state's full faith and credit to the payment of the principal thereof and the interest thereon and the state's unconditional promise to pay said principal and interest as the same shall become due. [1977 1st ex.s. c 354 § 4.]

28B.14C.050 Disposition of proceeds of refunding issues. The proceeds of the refunding issue or issues shall be invested and applied to the payment of the principal of, interest on and redemption premium, if any, on the bonds to be refunded, at the times and in the manner determined by the state finance committee consistent with the provisions and intent of this chapter. Any investment of such proceeds shall be made only in direct general obligations of the United States of America.

Any proceeds in excess of the amounts required to accomplish the refunding, or any such direct obligation of the United States of America acquired with such excess proceeds, shall be used to pay the fees and costs incurred in the refunding and the balance shall be deposited in the institutions of higher education refunding bond retirement fund of 1977. [1977 1st ex.s. c 354 § 5.]

28B.14C.060 Institutions of higher education refunding bond retirement fund of 1977—Created—Use—Investment of moneys in fund. There is hereby created in the state treasury the institutions of higher education refunding bond retirement fund of 1977, which fund shall be devoted to the payment of principal of, interest on and redemption premium, if any, on the bonds authorized to be issued pursuant to 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 next succeeding twelve months to pay the installments of principal of and interest on the refunding bonds coming due in such period. The state treasurer shall, not less than thirty days prior to the due date of each installment, withdraw from any general state revenues received in the state treasury an amount equal to the amount certified by the state finance committee as being required to pay such installment; shall deposit such amount in the institutions of higher education refunding bond retirement fund of 1977; and shall apply in a timely manner the funds so deposited to the payment of the installment due on the bonds.

Moneys in the said bond retirement fund may be invested as determined by the state finance committee. Any interest and profits derived from such interim investment shall be deposited into the said bond retirement fund. [1977 1st ex.s. c 354 § 6.]

28B.14C.070 Chapter not exclusive method for payment of interest and principal on bonds. The legislature may provide additional means for the payment of the principal of and interest on bonds issued pursuant to this chapter and this chapter shall not be deemed to provide an exclusive method for such payment. [1977 1st ex.s. c 354 § 7.]

28B.14C.080 Chapter as affecting University of Washington general tuition fee revenue bond redemption. At such time as ample provision has been made for full payment, when due under the terms thereof or upon redemption prior to maturity, of all the principal of and interest on and redemption premium, if applicable, on all the outstanding University of Washington general tuition fee revenue bonds payable from the University of Washington bond retirement fund, which provision has been made in a refunding plan adopted by the state finance committee pursuant to the terms of this chapter utilizing a part of the proceeds and the investment proceeds of the refunding bonds issued pursuant to this chapter, then:

(1) The said University of Washington bonds so refunded shall be deemed not to be "outstanding" or "unpaid" for purposes of RCW 28B.20.720, 28B.20.725, 28B.20.800 or any other statute pertaining to said bonds or any covenant of the University of Washington board of regents pertaining to said bonds;

(2) The board of regents of the University of Washington shall, from moneys thereafter paid into the University of Washington bond retirement fund pursuant to the provisions of chapter 28B.20 RCW, transfer to the state general fund amounts sufficient to pay the principal of and the interest on that portion or series of the refunding bonds necessary to refund the said University of Washington bonds. The state finance committee shall determine all matters pertaining to the said transfer, including the amounts to be transferred and the time and manner of transfer; and

(3) Anything to the contrary contained in chapter 28B.20 RCW notwithstanding, the state treasurer shall immediately transfer to the state general fund all reserves, less any amount required to effect the refunding, which have been accumulated theretofore in the University of Washington bond retirement fund pursuant to covenants in the said University of Washington bonds.

(4) Anything to the contrary contained in RCW 28B.20.725 notwithstanding, the board of regents of the University of Washington is empowered to authorize the transfer from time to time to the University of Washington building account any moneys in the University of Washington bond retirement fund in excess of the amounts determined by the state finance committee to be transferred from such bond retirement fund in

accordance with subsection (2) of this section. [1977 1st ex.s. c 354 § 8.]

28B.14C.090 Chapter as affecting Washington State University general tuition fee revenue bond redemption. At such time as ample provision has been made for full payment, when due under the terms thereof or upon redemption prior to maturity, of all the principal of and interest on and redemption premium, if applicable, on all the outstanding Washington State University general tuition fee revenue bonds and general tuition fee and scientific fund revenue bonds payable from the Washington State University bond retirement fund, which provision has been made in a refunding plan adopted by the state finance committee pursuant to the terms of this chapter utilizing a part of the proceeds and the investment proceeds of the refunding bonds issued pursuant to this chapter, then:

(1) The said Washington State University bonds so refunded shall be deemed not to be "outstanding" or "unpaid" for purposes of RCW 28B.20.720, 28B.30.740, 28B.30.750 or any other statute pertaining to said bonds or any covenant of Washington State University board of regents pertaining to said bonds;

(2) The board of regents of Washington State University shall, from moneys thereafter paid into the Washington State University bond retirement fund pursuant to the provisions of chapter 28B.30 RCW, transfer to the state general fund amounts sufficient to pay the principal of and the interest on that portion or series of the refunding bonds necessary to refund the said Washington State University bonds. The state finance committee shall determine all matters pertaining to the said transfer, including the amounts to be transferred and the time and manner of transfer; and

(3) Anything to the contrary contained in chapter 28B.30 RCW notwithstanding, the state treasurer shall immediately transfer to the state general fund all reserves, less any amount required to effect the refunding, which have been accumulated theretofore in the Washington State University bond retirement fund pursuant to covenants in the said Washington State University bonds.

(4) Anything to the contrary contained in RCW 28B.30.750 notwithstanding, the board of regents of Washington State University is empowered to authorize the transfer from time to time to the Washington State University building account any moneys in the Washington State University bond retirement fund in excess of the amounts determined by the state finance committee to be transferred from such bond retirement fund in accordance with subsection (2) of this section. [1977 1st ex.s. c 354 § 9.]

28B.14C.100 Chapter as affecting Western Washington State College general tuition fee and normal school fund revenue bonds. At such time as ample provision has been made for full payment, when due under the terms thereof or upon redemption prior to maturity, of all the principal of and interest on and redemption premium, if applicable, on all the outstanding Western

Washington State College general tuition fee and normal school fund revenue bonds payable from the Western Washington State College bond retirement fund, which provision has been made in a refunding plan adopted by the state finance committee pursuant to the terms of this chapter utilizing a part of the proceeds and the investment proceeds of the refunding bonds issued pursuant to this chapter, then:

(1) The said Western Washington State College bonds so refunded shall be deemed not to be "outstanding" or "unpaid" for purposes of RCW 28B.40.370, 28B.40.750, or, other than RCW 28B.40.751, any other statute pertaining to said bonds or any covenant of the board of trustees of Western Washington State College pertaining to said bonds;

(2) Anything to the contrary in chapter 28B.40 RCW notwithstanding, all general tuition fees and all normal school fund revenues received by Western Washington State College pursuant to RCW 28B.40.751 shall thenceforth be deposited into the Western Washington State College capital projects account and the board of trustees of said college shall thereafter transfer from said capital projects account to the state general fund, amounts sufficient to pay the principal of and interest on that portion or series of the refunding bonds necessary to refund the said bonds. The state finance committee shall determine all matters pertaining to the said transfer, including the amounts to be transferred and the time and manner of transfer; and

(3) Anything to the contrary contained in chapter 28B.40 RCW notwithstanding, the state treasurer shall immediately transfer to the state general fund all reserves, less any amount required to effect the refunding, which have been accumulated theretofore in the Western Washington State College bond retirement fund pursuant to covenants in the said Western Washington State College bonds. [1977 1st ex.s. c 354 § 10.]

Reviser's note: Reference to RCW sections 28B.40.370, 28B.40.750 and 28B.40.751 and to "chapter 28B.40 RCW" relates to such sections and chapter as they were prior to effective date (September 21, 1977) of 1977 1st ex.s. c 169, which renamed Central Washington State College, Eastern Washington State College and Western Washington State College as Central Washington University, Eastern Washington University and Western Washington University, respectively, creating three regional Universities within the state, and setting forth the specific laws relating thereto in chapter 28B.35 RCW, and leaving as chapter 28B.40 RCW the specific laws relating to The Evergreen State College.

"State universities", "regional universities", "state college", "institutions of higher education" and "postsecondary institutions" defined: RCW 28B.10.016.

Western Washington University capital projects account: RCW 28B.35.370.

28B.14C.110 Chapter as affecting Eastern Washington State College general tuition fee and normal school fund revenue bonds. At such time as ample provision has been made for full payment, when due under the terms thereof or upon redemption prior to maturity, of all the principal of and interest on and redemption premium, if applicable, on all the outstanding Eastern Washington State College general tuition fee and normal school fund revenue bonds payable from the Eastern

Washington State College bond retirement fund, which provision has been made in a refunding plan adopted by the state finance committee pursuant to the terms of this chapter utilizing a part of the proceeds and the investment proceeds of the refunding bonds issued pursuant to this chapter, then:

(1) The said Eastern Washington State College bonds so refunded shall be deemed not to be "outstanding" or "unpaid" for purposes of RCW 28B.40.370, 28B.40.750, or, other than RCW 28B.40.751, any other statute pertaining to said bonds or any covenant of the board of trustees of Eastern Washington State College pertaining to said bonds;

(2) Anything to the contrary in chapter 28B.40 RCW notwithstanding, all general tuition fees and all normal school fund revenues received by Eastern Washington State College pursuant to RCW 28B.40.751 shall thenceforth be deposited into the Eastern Washington State College capital projects account and the board of trustees of said college shall thereafter transfer from said capital projects account to the state general fund, amounts sufficient to pay the principal of and interest on that portion or series of the refunding bonds necessary to refund the said bonds. The state finance committee shall determine all matters pertaining to the said transfer, including the amounts to be transferred and the time and manner of transfer; and

(3) Anything to the contrary contained in chapter 28B.40 RCW notwithstanding, the state treasurer shall immediately transfer to the state general fund all reserves, less any amount required to effect the refunding, which have been accumulated theretofore in the Eastern Washington State College bond retirement fund pursuant to covenants in the said Eastern Washington State College bonds. [1977 1st ex.s. c 354 § 11.]

Reviser's note: Reference to RCW sections 28B.40.370, 28B.40.750 and 28B.40.751 and to "chapter 28B.40 RCW" relates to such sections and chapter as they were prior to effective date (September 21, 1977) of 1977 1st ex.s. c 169, which renamed Central Washington State College, Eastern Washington State College and Western Washington State College as Central Washington University, Eastern Washington University and Western Washington University, respectively, creating three regional universities within the state, and setting forth the specific laws relating thereto in chapter 28B.35 RCW, and leaving as chapter 28B.40 RCW the specific laws relating to The Evergreen State College.

Eastern Washington University capital projects account: RCW 28B.35.370.

"State universities", "regional universities", "state college", "institutions of higher education" and "postsecondary institutions" defined: RCW 28B.10.016.

28B.14C.120 Chapter as affecting Central Washington State College general tuition fee and normal school fund revenue bonds. At such time as ample provision has been made for full payment, when due under the terms thereof or upon redemption prior to maturity, of all the principal of and interest on and redemption premium, if applicable, on all the outstanding Central Washington State College general tuition fee and normal school fund revenue bonds payable from the Central Washington State College bond retirement fund, which provision has been made in a refunding plan adopted by the state finance committee pursuant to the terms of this

chapter utilizing a part of the proceeds and the investment proceeds of the refunding bonds issued pursuant to this chapter, then:

(1) The said Central Washington State College bonds so refunded shall be deemed not to be "outstanding" or "unpaid" for purposes of RCW 28B.40.370, 28B.40.750, or, other than RCW 28B.40.751, any other statute pertaining to said bonds or any covenant of the board of trustees of Central Washington State College pertaining to said bonds;

(2) Anything to the contrary in chapter 28B.40 RCW notwithstanding, all general tuition fees and all normal school fund revenues received by Central Washington State College pursuant to RCW 28B.40.751 shall thenceforth be deposited into the Central Washington State College capital projects account and the board of trustees of said college shall thereafter transfer from said capital projects account to the state general fund, amounts sufficient to pay the principal of and interest on that portion or series of the refunding bonds necessary to refund the said bonds. The state finance committee shall determine all matters pertaining to the said transfer, including the amounts to be transferred and the time and manner of transfer; and

(3) Anything to the contrary contained in chapter 28B.40 RCW notwithstanding, the state treasurer shall immediately transfer to the state general fund all reserves, less any amount required to effect the refunding, which have been accumulated theretofore in the Central Washington State College bond retirement fund pursuant to covenants in the said Central Washington State College bonds. [1977 1st ex.s. c 354 § 12.]

Reviser's note: Reference to RCW sections 28B.40.370, 28B.40.750 and 28B.40.751 and to "chapter 28B.40 RCW" relates to such sections and chapter as they were prior to effective date (September 21, 1977) of 1977 1st ex.s. c 169, which renamed Central Washington State College, Eastern Washington State College and Western Washington State College as Central Washington University, Eastern Washington University and Western Washington University, respectively, creating three regional universities within the state and setting forth the specific laws relating thereto in chapter 28B.35 RCW and leaving as chapter 28B.40 RCW the specific laws relating to The Evergreen State College.

Central Washington University capital projects account: RCW 28B.35.370.

"State universities", "regional universities", "state college", "institutions of higher education", and "postsecondary institutions" defined: RCW 28B.10.016.

28B.14C.130 Chapter as affecting Evergreen State College general tuition fee revenue bonds. At such time as ample provision has been made for full payment, when due under the terms thereof or upon redemption prior to maturity, of all the principal of and interest on and redemption premium, if applicable, on all the outstanding Evergreen State College general tuition fee revenue bonds payable from the Evergreen State College bond retirement fund, which provision has been made in a refunding plan adopted by the state finance committee pursuant to the terms of this chapter utilizing a part of the proceeds and the investment proceeds of the refunding bonds issued pursuant to this chapter, then:

(1) The said Evergreen State College bonds so refunded shall be deemed not to be "outstanding" or

"unpaid" for purposes of RCW 28B.40.370, 28B.40.750, or, other than RCW 28B.40.751, any other statute pertaining to said bonds or any covenant of the board of trustees of The Evergreen State College pertaining to said bonds;

(2) Anything to the contrary in chapter 28B.40 RCW notwithstanding, all general tuition fees and all normal school fund revenues received by The Evergreen State College pursuant to RCW 28B.40.751 shall thenceforth be deposited into the Evergreen State College capital projects account and the board of trustees of said college shall thereafter transfer from said capital projects account to the state general fund, amounts sufficient to pay the principal of and interest on that portion or series of the refunding bonds necessary to refund the said bonds. The state finance committee shall determine all matters pertaining to the said transfer, including the amounts to be transferred and the time and manner of transfer; and

(3) Anything to the contrary contained in chapter 28B.40 RCW notwithstanding, the state treasurer shall immediately transfer to the state general fund all reserves, less any amount required to effect the refunding, which have been accumulated theretofore in the Evergreen State College bond retirement fund pursuant to covenants in the said Evergreen State College bonds. [1977 1st ex.s. c 354 § 13.]

Reviser's note: Reference to RCW sections 28B.40.370, 28B.40.750 and 28B.40.751 and to "chapter 28B.40 RCW" relates to such sections and chapter as they were prior to effective date (September 21, 1977) of 1977 1st ex.s. c 169, which renamed Central Washington State College, Eastern Washington State College and Western Washington State College as Central Washington University, Eastern Washington University and Western Washington University, respectively, creating three regional universities within the state, and setting forth the specific laws relating thereto in chapter 28B.35 RCW, and leaving as chapter 28B.40 RCW the specific laws relating to The Evergreen State College.

"State universities", "regional universities", "state college", "institutions of higher education" and "postsecondary institutions" defined: RCW 28B.10.016.

28B.14C.140 Use limited when reserves transferred to state general fund. Any reserves transferred to the state general fund by the state treasurer pursuant to RCW 28B.14C.080(3), 28B.14C.090(3), 28B.14C.100(3), 28B.14C.110(3), 28B.14C.120(3), or 28B.14C.130(3) shall be appropriated and expended solely for the maintenance and support of the institutions listed in RCW 28B.14C.010. [1977 1st ex.s. c 354 § 14.]

28B.14C.900 Severability—1977 1st ex.s. c 354. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provisions to other persons or circumstances shall not be affected. [1977 1st ex.s. c 354 § 15.]

Reviser's note: 1977 1st ex.s. c 354 is codified in RCW 28B.14C.010, 28B.14C.020, 28B.14C.030, 28B.14C.040, 28B.14C.050, 28B.14C.060, 28B.14C.070, 28B.14C.080, 28B.14C.090, 28B.14C.100, 28B.14C.110, 28B.14C.120, 28B.14C.130, 28B.14C.140 and 28B.14C.900.

Chapter 28B.15

COLLEGE AND UNIVERSITY FEES

Sections

28B.15.005	"Colleges and universities" defined.
28B.15.020	"General tuition fees" defined—Use.
28B.15.031	"Operating fees" —Defined—Disposition.
28B.15.041	"Services and activities fees" defined.
28B.15.060	General tuition and operating fees to reflect cost of instruction.
28B.15.065	Adjustment of state appropriations for needy student financial aid.
28B.15.070	Development of definitions, criteria and procedures for the operating cost of instruction.
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28B.15.800	Pledged bond retirement funds to be set aside from general tuition and fees.
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28B.15.005 "Colleges and universities" defined. (1) "Colleges and universities" for the purposes of this chapter shall mean Central Washington University at Ellensburg, Eastern Washington University at Cheney, Western Washington University 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.

(2) "State universities" for the purposes of this chapter shall mean the University of Washington and Washington State University.

(3) "Regional universities" for the purposes of this chapter shall mean Central Washington University, Eastern Washington University and Western Washington University. [1977 1st ex.s. c 169 § 33; 1971 ex.s. c 279 § 1.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

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.15.020 "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 regional universities, The Evergreen State College, and the state 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 regional universities and at The Evergreen State College, solely for the purposes provided in RCW 28B.35.370; and at the community colleges, for the purposes provided in RCW 28B.50.320, 28B.50.360 and 28B.50.370 as now or hereafter amended. [1977 1st ex.s. c 169 § 34; 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.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.15.031 "Operating fees" —Defined—Disposition. 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. All moneys received as operating fees at any institution of higher education shall be transmitted to the state treasurer within thirty-five days of receipt to be deposited in the state general fund: *Provided*, That required matching moneys for federal and state financial aid programs may be exempt from such deposit with approval of the director of the office of program planning and fiscal management. [1977 1st ex.s. c 331 § 3; 1971 ex.s. c 279 § 2.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Effective date—1977 1st ex.s. c 331: "The effective date of this 1977 amendatory act shall be September 1, 1977." [1977 1st ex.s. c 331 § 5.]

Severability—1977 1st ex.s. c 331: "If any provision of this 1977 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." [1977 1st ex.s. c 331 § 4.]

The above annotations apply to RCW 28B.15.031, 28B.50.142 and 28B.50.143.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.041 "Services and activities fees" defined.

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, regional universities, The Evergreen State College, and state 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, The Evergreen State College, the regional universities, or the state 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 as now or hereafter amended, shall be included within and deemed to be services and activities fees. [1977 1st ex.s. c 169 § 35. Prior: 1973 1st ex.s. c 130 § 2; 1973 1st ex.s. c 46 § 1; 1971 ex.s. c 279 § 3.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

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.15.060 General tuition and operating fees to reflect cost of instruction. It is the intent of the legislature that amounts charged for general tuition and operating fees shall reflect the proportional operating cost of instruction at the state universities. It is the further intent of the legislature that such fees charged to undergraduate resident students at the state universities be not more than twenty-five percent of the cost of undergraduate university instruction, that such fees charged to undergraduate resident students at the regional universities and The Evergreen State College be not more than eighty percent of the total of general tuition and operating fees charged to state university undergraduate resident students and that such fees charged to undergraduate resident students at community colleges be not more than forty-five percent of the total of general tuition and operating fees charged to state university undergraduate resident students. [1977 1st ex.s. c 322 § 1.]

Severability—1977 1st ex.s. c 322: "If any provision of this 1977 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." [1977 1st ex.s. c 322 § 17.] This applies to RCW 28B.15.060, 28B.15.065, 28B.15.070, 28B.15.075, 28B.15.100, 28B.15.201, 28B.15.380, 28B.15.401, 28B.15.500, 28B.15.620, 28B.15.710, 28B.15.800, 28B.35.361, 28B.40.361 and to the repeal of RCW 28B.15.200, 28B.15.300, 28B.15.400 and 28B.15.630.

28B.15.065 Adjustment of state appropriations for needy student financial aid. It is the intent of the legislature that needy students not be deprived of access to higher education due to increases in educational costs or consequent increases in tuition and fees. It is the sense of the legislature that state appropriations for student financial aid be adjusted in an amount which together with funds estimated to be available in the form of basic educational opportunity grants as authorized under Section 411 of the federal Higher Education Act of 1965 as now or hereafter amended will equal twenty-four percent of any change in revenue estimated to occur as a result of revisions in tuition and fee levels under the provisions of this 1977 amendatory act. [1977 1st ex.s. c 322 § 6.]

Reviser's note: Phrase "this 1977 amendatory act", see "this applies to" note following RCW 28B.15.060.

Severability—1977 1st ex.s. c 322: See note following RCW 28B.15.060.

28B.15.070 Development of definitions, criteria and procedures for the operating cost of instruction. The house and senate higher education committees shall develop, in cooperation with the council for postsecondary education and the respective fiscal committees of the house and senate, the office of fiscal management and the state institutions of higher education no later than January 1978, and at each two year interval thereafter, definitions, criteria and procedures for the operating cost of instruction for the state universities upon which general tuition and operating fee recommendations will be based. [1977 1st ex.s. c 322 § 7.]

Severability—1977 1st ex.s. c 322: See note following RCW 28B.15.060.

28B.15.075 Recommendations for adjustments in the amounts of tuition and operating fees. In accordance with its responsibilities under RCW 28B.80.030(3), the council for postsecondary education shall make recommendations to the governor and the legislature for adjustments in the amounts of tuition and operating fees consistent with the intent of this 1977 amendatory act. Such recommendations shall be made not later than November 10th of each even-numbered year and shall be based on the operating cost of instruction for the state universities for the biennium then in effect, such operating costs to be calculated in accordance with definitions, criteria and procedures which have been approved as provided in RCW 28B.15.070. [1977 1st ex.s. c 322 § 8.]

Reviser's note: Phrase "this 1977 amendatory act", see "this applies to" note following RCW 28B.15.060.

Severability—1977 1st ex.s. c 322: See note following RCW 28B.15.060.

28B.15.100 General tuition and fees set by individual institutions—Limitations. The board of regents or board of trustees at each of the state's regional and state universities and at The Evergreen State College shall charge to and collect from each of the students registering at the particular institution for any quarter or semester such general tuition fees, operating fees, services and activities fees, and other fees as such board shall in its discretion determine, the total of all such fees, the general tuition fee, operating fee, and services and activities fee, to be rounded-out to the nearest whole dollar amount: *Provided*, That such general tuition fees and operating fees for other than summer session quarters or semesters shall be in the amounts for the respective institutions as otherwise set forth in this chapter, as now or hereafter amended: *Provided further*, That the fees charged by boards of trustees of community college districts shall be in the amounts for the respective institutions as otherwise set forth in this chapter, as now or hereafter amended. [1977 1st ex.s. c 322 § 2; 1977 1st ex.s. c 169 § 36; 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—1977 1st ex.s. c 322: See note following RCW 28B.15.060.

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.110 Tuition and fees when joint program of four year institutions—Supplemental fees, when.

Where students at any of the four year state colleges or universities participate in a joint program undertaken by two or more of such institutions, and which leads to a degree, the tuition and fees assessed each student participating in such joint program shall be equal.

The governing board at each state four year institution shall, where the tuition and fees which it charges resident students participating in a joint program falling within the scope of this section would be less than those charged to any such students from any other state four year institution who participates in such joint program, impose a supplemental fee upon its resident students so participating in order to make the tuition and fees charged to them equal to the highest amount charged to any other resident student from a state four year institution who participates in the program. Such governing board shall, where the tuition and fees which it charges nonresident students participating in a joint program falling within the scope of this section would be less than those charged to any such students participating from any other state four year institution who participates in such joint program, impose a supplemental fee upon its nonresident students so participating in order to make the tuition and fees charged to them equal to the highest amount charged to any other nonresident student from a state four year institution who participates in the program. [1977 1st ex.s. c 126 § 1.]

"State universities", "regional universities", "state college", "institutions of higher education" and "postsecondary institutions" defined: RCW 28B.10.016.

28B.15.200 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.15.201 General tuition and fees—University of Washington and Washington State University—Services and activities fees, maximum. General tuition fees, operating fees, and services and activities fees at the University of Washington and at Washington State University for other than summer quarters or semesters shall be as follows:

(1) For full time resident undergraduate students and all other full time resident students not in graduate study programs or enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, for the 1977–78 academic year the total of general tuition and operating fees shall be five hundred and forty-three dollars, and for the 1978–79 academic year, and thereafter, the total of general tuition and operating fees shall be five hundred and seventy dollars: *Provided*, That the general tuition fee for such academic years and each academic year thereafter shall be one hundred and seventeen dollars.

(2) For full time resident graduate students not enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, for the 1977–78 academic year the total of general tuition and operating fees shall be six hundred and twenty-four dollars, and for the 1978–79 academic year, and thereafter, the total of general tuition and

operating fees shall be six hundred and fifty-four dollars: *Provided*, That the general tuition fee for such academic years and each academic year thereafter shall be one hundred and seventeen dollars.

(3) For full time resident students enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, for the 1977-78 academic year the total of general tuition and operating fees shall be eight hundred and fifty-eight dollars, and for the 1978-79 academic year, and thereafter, the total of general tuition and operating fees shall be nine hundred and twelve dollars: *Provided*, That the general tuition fee for such academic years and each academic year thereafter shall be three hundred and thirty-three dollars.

(4) For full time nonresident undergraduate students and such other full time nonresident students not in graduate study programs or enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, or doctor of veterinary medicine, for each academic year of the 1977-79 biennium, and thereafter, the total of general tuition and operating fees shall be two thousand two hundred and seventy-seven dollars: *Provided*, That the general tuition fee for such academic years and each academic year thereafter shall be three hundred and forty-five dollars.

(5) For full time nonresident graduate students not enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, for each academic year of the 1977-79 biennium, and thereafter, the total of general tuition and operating fees shall be two thousand six hundred and nineteen dollars: *Provided*, That the general tuition fee for such academic years and each academic year thereafter shall be three hundred and forty-five dollars.

(6) For full time nonresident students enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, for each academic year of the 1977-79 biennium, and thereafter, the total of general tuition and operating fees shall be three thousand six hundred and forty-two dollars: *Provided*, That the general tuition fee for such academic years and each academic year thereafter shall be five hundred and forty-three dollars.

(7) The boards of regents of each of the state universities shall charge and collect equally from each of the students registering at the particular institution and included in subsections (1) through (6) hereof a services and activities fee which for each academic year shall not exceed one hundred and seventeen dollars. [1977 1st ex.s. c 322 § 3.]

Severability—1977 1st ex.s. c 322: See note following RCW 28B.15.060.

28B.15.300 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.15.310 Fees—Washington State University—Disposition of general tuition fees.

Chapter not to repeal, override or limit other statutes or actions: RCW 28B.31.100.

28B.15.380 Exemption from payment of fees at state universities. In addition to any other exemptions as may be provided by law, the board of regents at the state 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: *And, provided further*, That such exemptions shall be provided only to those persons otherwise covered who were enrolled in universities on or before October 1, 1977. (2) Members of the staffs of the University of Washington and Washington State University: *Provided*, That for the purposes of this subsection "staffs" shall not apply to faculty and administrative exempt employees. (3) 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. [1977 1st ex.s. c 322 § 10; 1977 1st ex.s. c 169 § 37; 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—1977 1st ex.s. c 322: See note following RCW 28B.15.060.

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

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

28B.15.401 General tuition and fees—Regional universities and The Evergreen State College—Services and activities fees, maximum. General tuition fees, operating fees, and services and activities fees at the regional universities and The Evergreen State College for other than summer quarters or semesters shall be as follows:

(1) For full time resident undergraduate students and all other full time resident students not in graduate study programs, for the 1977-78 academic year the total of general tuition and operating fees shall be four hundred and twenty-nine dollars, and for the 1978-79 academic year, and thereafter, the total of general tuition and operating fees shall be four hundred and fifty-six dollars: *Provided*, That the general tuition fee for such

academic years and each academic year thereafter shall be seventy-five dollars.

(2) For full time resident graduate students, for the 1977-78 academic year the total of general tuition and operating fees shall be four hundred and eighty-nine dollars, and for the 1978-79 academic year, and thereafter, the total of general tuition and operating fees shall be five hundred and twenty-two dollars: *Provided*, That the general tuition fee for such academic years and each academic year thereafter shall be seventy-five dollars.

(3) For full time nonresident undergraduate students and all other full time nonresident students not in graduate study programs, for each academic year of the 1977-79 biennium, and thereafter, the total of general tuition and operating fees shall be one thousand eight hundred and twenty-one dollars: *Provided*, That the general tuition fee for such academic years and each academic year thereafter shall be two hundred and eighty-eight dollars.

(4) For full time nonresident graduate students, for each academic year of the 1977-79 biennium, and thereafter, the total of general tuition and operating fees shall be two thousand and ninety-four dollars: *Provided*, That the general tuition fee for such academic years and each academic year thereafter shall be two hundred and eighty-eight dollars.

(5) The boards of trustees of each of the state colleges shall charge and collect equally from each of the students registering at the particular institution and included in subsections (1) through (4) hereof a services and activities fee which for each academic year shall not exceed one hundred and sixty-two dollars. [1977 1st ex.s. c 322 § 4.]

Severability—1977 1st ex.s. c 322: See note following RCW 28B.15.060.

Regional universities defined: RCW 28B.10.016(2).

28B.15.414 Fees—The Evergreen State College—Exemptions of certain veterans from payment of fees. See RCW 28B.40.361.

28B.15.415 Fees—Regional universities—Exemption of certain veterans from payment of fees. See RCW 28B.35.361.

28B.15.500 General tuition and fees—Community colleges—Services and activities fees, maximum—Fees for summer school and part time students and certain courses. General tuition fees, operating fees and services and activities fees at each community college other than at summer quarters shall be as follows:

(1) For full time resident students, for the 1977-78 academic year the total of general tuition and operating fees shall be two hundred and forty dollars, and for the 1978-79 academic year, and thereafter, the total of general tuition and operating fees shall be two hundred and fifty-five dollars: *Provided*, That the general tuition fee for such academic years and each academic year thereafter shall be one hundred and twenty-four dollars and fifty cents.

(2) For full time nonresident students, for each academic year of the 1977-79 biennium, and thereafter, the

total of general tuition and operating fees shall be one thousand one hundred and thirty-seven dollars: *Provided*, That the general tuition fee for such academic years and each academic year thereafter shall be three hundred and ninety-four dollars and fifty cents.

(3) The boards of trustees of each of the state community colleges shall charge and collect equally from each of the students registering at the particular institution and included in subsections (1) and (2) hereof a services and activities fee which for each academic year shall not exceed fifty-one dollars.

(4) 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. [1977 1st ex.s. c 322 § 5; 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—1977 1st ex.s. c 322: See note following RCW 28B.15.060.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

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 regional universities, The Evergreen State College, or state 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. [1977 1st ex.s. c 169 § 39; 1971 ex.s. c 279 § 11.]

Reviser's note: RCW 28B.15.010 referred to herein was repealed by 1971 ex.s. c 273 § 5; but see later enactment, RCW 28B.15.012.

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

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.15.550 Resident status fees for certain immigrant refugees—Purpose. The legislature recognizes that in extending resident tuition and fee rates at the state's universities, colleges, and community colleges to Indo-Chinese and other immigrant refugees as provided for in RCW 28B.15.552, necessary assistance is being provided to people who have suffered hardship and who require help in attaining basic and fundamental skills in order to adapt to life within their respective communities. [1977 1st ex.s. c 265 § 1.]

Reviser's note: The above section contained a reference to "section 2 of this amendatory act". During its course of passage a new section 2 was added to HB 225 and the original section 2 became section 3 but the above reference was not adjusted accordingly. Pursuant to the authority of RCW 1.08.015, "section 2" has been translated to read RCW 28B.15.552.

28B.15.551 Resident status fees for certain immigrant refugees—"Parole status" defined. As used herein, the term parole status shall mean that resident status heretofore granted by the Attorney General of the United States under the provisions of Title 8 United States Code, Section 1182(d)(5). [1977 1st ex.s. c 265 § 2.]

28B.15.552 Resident status fees for certain immigrant refugees—Granted. The state's universities, colleges, and community colleges shall grant resident status for the purpose of tuition and fee payment, including operating fees and services and activities fees, to any immigrant refugee, including but not limited to those immigrant refugees from Vietnam, Cambodia, or Laos who entered the United States after January 1, 1975, and, before or after June 15, 1977, who is settled in Washington state for one year immediately prior to enrollment, and is either (1) on parole status, (2) has received an immigrant visa, or (3) has applied for United States citizenship. This status shall also be granted to the spouse and children of any such refugee who are settled in Washington state, whether accompanying or later joining such person in this country, and to any such refugee who had previously entered the United States under a student visa: *Provided*, That such persons have also settled in Washington state for one year immediately prior to enrollment, and are either (1) on parole status, (2) have received an immigrant visa, or (3) have applied for United States citizenship. [1977 1st ex.s. c 265 § 3.]

28B.15.553 Resident status fees for certain nonimmigrant aliens—Granted. The state's public institutions of higher education shall grant resident status for the purpose of tuition and fee payment, including operating fees and services and activities fees, to any nonimmigrant alien entering the United States under and in pursuance of the provisions of a treaty of commerce and navigation between the United States and the foreign state of which he or she is a national, more specifically as referred to under the visa classification defined in Title 8, Section 1101(a)(15)(E)(i) under the Immigration and Nationality Act as in the Code of the United States of America, and to the spouse and children of any such alien. [1977 1st ex.s. c 155 § 1.]

Severability—1977 1st ex.s. c 155: "If any provision of this 1977 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." [1977 1st ex.s. c 155 § 4.] This applies to RCW 28B.15.553 and 28B.15.554.

28B.15.554 Resident status fees for certain nonimmigrant aliens—Purpose. The legislature recognizes that in extending resident tuition and fee rates at institutions of higher education to such nonimmigrant aliens and their families who are in this state to carry on business, as provided for in RCW 28B.15.553, simple justice is being extended to such families who live in this state and pay federal, state and local taxes, contribute to the social and cultural activities within their neighborhoods, and contribute most substantially to the economic welfare of this state; thus these families should be accorded in some small measure rights coincident to that of their neighbors within their community. [1977 1st ex.s. c 155 § 3.]

Severability—1977 1st ex.s. c 155: See note following RCW 28B.15.553.

28B.15.600 Refunds or cancellation of fees. The boards of regents of the state's universities and the boards of trustees of the regional universities and The Evergreen State College 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. [1977 1st ex.s. c 169 § 40; 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—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

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.15.620 Vietnam veterans, adjustment of tuition and fees increase at institutions of higher learning—Expiration. (1) The tuition and operating fees charged to veterans of the Vietnam conflict who have served in the southeast Asia theater of operations attending institutions of higher learning shall be, for each academic year of the 1977–79 biennium and thereafter, adjusted at the same dollar amount as are the tuition and operating fees of resident undergraduate students: *Provided*, That for the purposes of this section, "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 May 7, 1975 and who qualify as a resident student under RCW 28B.15.012 and who have enrolled in state institutions of higher education on or before June 30, 1977.

(2) The provisions of this section shall be null and void and of no effect after July 1, 1981. [1977 1st ex.s. c 322 § 9; 1972 ex.s. c 149 § 3; 1971 ex.s. c 279 § 22.]

Severability—1977 1st ex.s. c 322: See note following RCW 28B.15.060.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.630 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.15.710 General tuition and fees for residents of British Columbia, Canada—Limitations—Program review. For the period commencing August 1, 1977, and ending July 31, 1981, those students enrolled in undergraduate programs at Washington state universities and regional universities and The Evergreen State College who are residents of the Canadian province of British Columbia, shall pay the same amount of general tuition, operating, and services and activities fees charged Washington resident students enrolled in the same programs: *Provided*, That if a different tuition and fee schedule shall be charged Washington state students attending institutions of higher education located in the Canadian province of British Columbia than for resident students thereof, the provisions of this section shall cease to be in effect at the end of the fiscal year in which the different tuition and fee schedule is so charged.

The council for postsecondary education shall review the costs of such pilot program and make recommendations to the legislative session, commencing January, 1981, on the possible continuation of this experimental program. Following such review, the legislature shall make the determination to extend or terminate the program. [1977 1st ex.s. c 322 § 13.]

Severability—1977 1st ex.s. c 322: See note following RCW 28B.15.060.

28B.15.800 Pledged bond retirement funds to be set aside from general tuition and fees. Notwithstanding any other section of this 1977 amendatory act, the boards of regents and trustees of the respective institutions of higher education shall set aside from general tuition and

fees charged in each schedule an amount heretofore pledged and necessary for the purposes of bond retirement until such time as any such debt has been satisfied. [1977 1st ex.s. c 322 § 15.]

Reviser's note: Phrase "this 1977 amendatory act", see "this applies to" notes following RCW 28B.15.060.

Severability—1977 1st ex.s. c 322: See note following RCW 28B.15.060.

28B.15.900 "State universities", "regional universities", "state college", "institutions of higher education" and "postsecondary institutions" defined. See RCW 28B.10.016.

Chapter 28B.16

STATE HIGHER EDUCATION PERSONNEL LAW

Sections

28B.16.020	Definitions.
28B.16.040	Exempted personnel.
28B.16.100	Rules—Scope.
28B.16.101	Rules—Areas for local administration and management.
28B.16.105	Rules—Standardized employee performance evaluation procedures and forms.
28B.16.110	Rules—Salary schedules and compensation plans to reflect prevailing wages—Periodic wage surveys with recommended salary adjustments, report of with supporting data.
28B.16.112	Rules—Salary schedules and compensation plans to reflect prevailing wages—Salary and fringe benefit surveys—Comprehensive plan—"Fringe benefits" defined.
28B.16.113	Rules—Salary schedules and compensation plans to reflect prevailing wages—Criteria for salary surveys.

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 University, Eastern Washington University, Western Washington University, 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. [1977 1st ex.s. c 169 § 41; 1969 ex.s. c 36 § 2. Formerly RCW 28.75.020.]

~~Severability—Nomenclature—Savings—1977 1st ex.s. c 169:~~
See notes following RCW 28B.10.016.

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; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington.

(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. [1977 1st ex.s. c 94 § 1; 1969 ex.s. c 36 § 4. Formerly RCW 28.75.040.]

28B.16.100 Rules—Scope. The higher education personnel board shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(1) The dismissal, suspension, or demotion of an employee, and appeals therefrom;

(2) 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;

(3) Examination for all positions in the competitive and noncompetitive service;

(4) Appointments;

(5) Probationary periods of six months and rejections therein;

(6) Transfers;

(7) Sick leaves and vacations;

(8) Hours of work;

(9) Layoffs when necessary and subsequent reemployment, both according to seniority;

(10) 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;

(11) Certification and decertification of exclusive bargaining representatives: *Provided*, That 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 further*, 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;

(12) 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;

(13) 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;

(14) 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;

(15) Allocation and reallocation of positions within the classification plan;

(16) Adoption and revision of salary schedules and compensation plans which reflect 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 state or 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;

(17) Training programs including in-service, promotional, and supervisory;

(18) 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

(19) 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. [1977 1st ex.s. c 152 § 8; 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. Former part of section, see RCW 28B.16.101.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Severability—1977 1st ex.s. c 152: See note following RCW 41.06.150.

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.16.101 Rules—Areas for local administration and management. Rules adopted 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:

(1) Appointment, promotion, and transfer of employees;

(2) Dismissal, suspension, or demotion of an employee;

(3) Examinations for all positions in the competitive and noncompetitive service;

(4) Probationary periods of six months and rejections therein;

(5) Sick leaves and vacations;

(6) Hours of work;

(7) Layoffs when necessary and subsequent reemployment;

(8) Allocation and reallocation of positions within the classification plans;

(9) Training programs; and

(10) Maintenance of personnel records. [1977 1st ex.s. c 152 § 9. Prior: 1975 1st ex.s. c 122 § 1, part; 1973 1st ex.s. c 75 § 2, part; 1973 c 154 § 2, part; 1971 ex.s. c 19 § 1, part; 1969 ex.s. c 36 § 10, part. Formerly RCW 28B.16.100, part.]

Severability—1977 1st ex.s. c 152: See note following RCW 41.06.150.

28B.16.105 Rules—Standardized employee performance evaluation procedures and forms. After consultation with institution heads, employee organizations, and other interested parties, the board shall develop standardized employee performance evaluation procedures and forms which shall be used by institutions of higher learning for the appraisal of employee job performance at least annually. These procedures shall include means whereby individual institutions may supplement the standardized evaluation process with special performance factors peculiar to specific organizational needs. This evaluation procedure shall place primary emphasis on recording how well the employee has contributed to efficiency, effectiveness, and economy in fulfilling institution and job objectives. A standardized performance evaluation procedure shall be instituted not later than July 1, 1978, for all employees. [1977 1st ex.s. c 152 § 13.]

Severability—1977 1st ex.s. c 152: See note following RCW 41.06.150.

28B.16.110 Rules—Salary schedules and compensation plans to reflect prevailing wages—Periodic

wage surveys with recommended salary adjustments, report of with supporting data. The salary schedules and compensation plans, adopted and revised as provided in RCW 28B.16.100 as now or hereafter amended, shall reflect prevailing rates in other public employment and in private employment in this state or in the locality in which the institution or related board is located. For this purpose salary and fringe benefit surveys shall be undertaken by the board with the assistance of the various personnel officers of the institutions of higher education and on a joint basis with the department of personnel, 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 salary and fringe benefit 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. A copy of the data and supporting documentation shall be furnished by the board to the standing committees for appropriations of the senate and house of representatives.

The board shall furnish the following supplementary data in support of its recommended salary schedule:

(1) A total dollar figure which reflects the recommended increase or decrease in state salaries as a direct result of the specific salary and fringe benefit survey that has been conducted and which is categorized to indicate what portion of the increase or decrease is represented by salary survey data and what portion is represented by fringe benefit survey data;

(2) An additional total dollar figure which reflects the impact of recommended increases or decreases to state salaries based on other factors rather than directly on prevailing rate data obtained through the survey process and which is categorized to indicate the sources of the requests for deviation from prevailing rates and the reasons for the changes;

(3) A list of class codes and titles indicating recommended monthly salary ranges for all state classes under the control of the higher education personnel board with:

(a) Those salary ranges which do not substantially conform to the prevailing rates developed from the salary and fringe benefit survey distinctly marked and an explanation of the reason for the deviation included; and

(b) Those higher education personnel board classes which are substantially the same as classes being used by the department of personnel clearly marked to show the commonality of the classes between the two jurisdictions;

(4) A supplemental salary schedule which indicates the additional salary to be paid state employees for hazardous duties or other considerations requiring extra compensation under specific circumstances. Additional compensation for these circumstances shall not be included in the basic salary schedule but shall be maintained as a separate pay schedule for purposes of full disclosure and visibility; and

(5) A supplemental salary schedule which indicates those cases where the board determines that prevailing rates do not provide similar salaries for positions that

require or impose similar responsibilities, judgment, knowledge, skills, and working conditions. This supplementary salary schedule shall contain proposed salary adjustments necessary to eliminate any such dissimilarities in compensation. Additional compensation needed to eliminate such salary dissimilarities shall not be included in the basic salary schedule but shall be maintained as a separate salary schedule for purposes of full disclosure and visibility.

It is the intention of the legislature that requests for funds to support recommendations for salary deviations from the prevailing rate survey data shall be kept to a minimum, and that the requests be fully documented when forwarded by the board. Further, it is the intention of the legislature that the department of personnel and the higher education personnel board jointly determine job classes which are substantially common to both jurisdictions and that basic salaries for these job classes shall be equal based on salary and fringe benefit survey findings. [1977 1st ex.s. c 152 § 10; 1975 1st ex.s. c 122 § 2; 1969 ex.s. c 36 § 11. Formerly RCW 28.75.110.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Severability—1977 1st ex.s. c 152: See note following RCW 41.06.150.

28B.16.112 Rules—Salary schedules and compensation plans to reflect prevailing wages—Salary and fringe benefit surveys—Comprehensive plan—"Fringe benefits" defined. (1) In the conduct of salary and fringe benefit surveys under RCW 28B.16.110 as now or hereafter amended, it is the intention of the legislature that the surveys be undertaken in a manner consistent with statistically accurate sampling techniques. For this purpose, a comprehensive salary and fringe benefit survey plan shall be submitted to the director of the office of program planning and fiscal management, employee organizations, the standing committees for appropriations in the senate and house of representatives, and to the legislative budget committee six months before the beginning of each periodic survey required before regular legislative sessions. This comprehensive plan shall include but not be limited to the following:

(a) A complete explanation of the technical, statistical process to be used in the salary and fringe benefit survey including the percentage of accuracy expected from the planned statistical sample chosen for the survey and a definition of the term "prevailing rates" which is to be used in the planned survey;

(b) A comprehensive salary and fringe benefit survey model based on scientific statistical principles which:

(i) Encompasses the interrelationships among the various elements of the survey sample including sources of salary and fringe benefit data by organization type, size, and regional location;

(ii) Is representative of private and public employment in this state;

(iii) Ensures that, wherever practical, data from smaller, private firms are included and proportionally weighted in the survey sample; and

(iv) Indicates the methodology to be used in application of survey data to job classes used by state government;

(c) A prediction of the increase or decrease in total funding requirements expected to result from the pending salary and fringe benefit survey based on consumer price index information and other available trend data pertaining to Washington state salaries and fringe benefits.

(2) Every comprehensive survey plan shall fully consider fringe benefits as an element of compensation in addition to basic salary data. The plans prepared under this section shall be developed jointly by the higher education personnel board in conjunction with the department of personnel established under chapter 41.06 RCW. All comprehensive salary and fringe benefit survey plans shall be submitted on a joint signature basis by the higher education personnel board and the department of personnel. The legislative budget committee shall review and evaluate all survey plans before final implementation.

(3) Interim or special surveys conducted under RCW 28B.16.110 as now or hereafter amended shall conform when possible to the statistical techniques and principles developed for regular periodic surveys under this section.

(4) The term "fringe benefits" as used in this section and in conjunction with salary surveys shall include but not be limited to compensation for:

(a) Leave time, including vacation, holiday, civil, and personal leave;

(b) Employer retirement contributions;

(c) Health and insurance payments, including life, accident, and health insurance, workmen's compensation, and sick leave; and

(d) Stock options, bonuses, and purchase discounts where appropriate. [1977 1st ex.s. c 152 § 11.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Severability—1977 1st ex.s. c 152: See note following RCW 41.06.150.

28B.16.113 Rules—Salary schedules and compensation plans to reflect prevailing wages—Criteria for salary surveys. Salary surveys shall be conducted according to the following criteria in addition to any other provisions under this chapter:

(1) Adjustments of state salaries to prevailing rates in Washington state private industries and other governmental units shall be determined by comparisons of weighted averages of salaries, including weighted averages of salaries from out-of-state sources when necessary to obtain statistically valid salary surveys; and

(2) Determination of state salary changes from prevailing rate data collected in salary surveys shall be based on occupational group averages containing related job classes where appropriate rather than on comparisons of survey data to individual state job classes. [1977 1st ex.s. c 152 § 12.]

Severability—1977 1st ex.s. c 152: See note following RCW 41.06.150.

Chapter 28B.19

STATE HIGHER EDUCATION ADMINISTRATIVE PROCEDURE ACT

Sections

28B.19.020	Definitions.
28B.19.030	Notice of intended action, filing, contents—Oral hearing, when—Proceedings on rule barred until twenty days after register distribution—Questioning procedural validity of rule, estoppel—Rule ineffective on failure to file notice.
28B.19.040	Emergency rule or amendment.

Institutions of higher education considered state agencies for certain purposes: RCW 34.08.050.

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 University, Eastern Washington University, Western Washington University, 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. [1977 1st ex.s. c 169 § 42; 1971 ex.s. c 57 § 2.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.19.030 Notice of intended action, filing, contents—Oral hearing, when—Proceedings on rule barred until twenty days after register distribution—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) File notice thereof with the code reviser in accordance with RCW 34.08.020(1) for publication in the state register, and mail 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 also 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 proceeding shall be held on any rule until twenty days have passed from the distribution date of the register in which notice thereof was contained. The code reviser shall make provisions for informing an institution of higher education giving notice under subsection (1) of this section of the distribution date of the register in which such notice will be published.

(3) 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 RCW 34.08.020(1), 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.

(4) 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 (2) of this section, the code reviser shall not publish such rule, and

such rule shall not be effective for any purpose. [1977 1st ex.s. c 240 § 10; 1971 ex.s. c 57 § 3.]

Effective date—1977 1st ex.s. c 240: See note following RCW 34.08.010.

Severability—1977 1st ex.s. c 240: See RCW 34.08.910.

Institutions of higher education considered state agencies for certain purposes: RCW 34.08.050.

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 after filing.

Emergency rules shall become effective upon filing with the code reviser unless an effective date is specified in the rule. The emergency rule published in the state register is solely to inform the public of its adoption, and nothing in this section shall be construed to prevent the implementation of the rule upon such filing. [1977 1st ex.s. c 240 § 11; 1973 1st ex.s. c 46 § 4; 1971 ex.s. c 57 § 4.]

Effective date—1977 1st ex.s. c 240: See note following RCW 34.08.010.

Severability—1977 1st ex.s. c 240: See RCW 34.08.910.

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.

Chapter 28B.20

UNIVERSITY OF WASHINGTON

Sections

28B.20.130	Powers and duties of regents—General.
28B.20.382	Old university grounds or metropolitan tract, conditions for sale, lease or lease renewal—Inspection of pertinent records.
28B.20.720	University of Washington bond retirement fund — Composition—Pledge of general tuition fees.
28B.20.725	Additional powers of board—Issuance of bonds, investments, transfer of funds, etc.
28B.20.800	Revenues derived from certain university lands and income from university permanent fund deposited in University of Washington bond retirement fund—Covenant.

Bond issue of 1977 for the refunding of outstanding limited obligation revenue bonds of institutions of higher education: Chapter 28B.14C RCW.

Development of definitions, criteria and procedures for the operating cost of instruction (state universities): RCW 28B.15.070.

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 submit upon request such reports as will be helpful to the governor and to the legislature in providing for the institution. [1977 c 75 § 20; 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.]

*Reviser's note: RCW 28B.20.380 was repealed by 1974 ex.s. c 174 § 2.

28B.20.382 Old university grounds or metropolitan tract, conditions for sale, lease or lease renewal—Inspection of pertinent records. 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, December 31, 1980. 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, December 31, 1980, 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, December 31, 1980: *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: *Provided further*, That any and all records, books, accounts and/or agreements of any lessee or sublessee under this section, pertaining to compliance with the terms and conditions of such lease or sublease, shall be open to inspection by the board of regents and/or the ways and means committee of the senate or the appropriations committee of the house of representatives or any successor committee of either. It is not intended by this proviso that unrelated records, books, accounts and/or agreements of lessees, sublessees or related companies be open to such inspection. [1977 1st ex.s. c 365 § 1; 1974 ex.s. c 174 § 1.]

28B.20.720 University of Washington bond retirement fund—Composition—Pledge of general tuition fees.

1977 Bond act for the refunding of outstanding limited obligation revenue bonds of institutions of higher education, as affecting: RCW 28B.14C.080–28B.14C.130.

28B.20.725 Additional powers of board—Issuance of bonds, investments, transfer of funds, etc.

1977 Bond act for the refunding of outstanding limited obligation revenue bonds of institutions of higher education, as affecting: RCW 28B.14C.080–28B.14C.130.

28B.20.800 Revenues derived from certain university lands and income from university permanent fund deposited in University of Washington bond retirement fund—Covenant.

1977 Bond act for the refunding of outstanding limited obligation revenue bonds of institutions of higher education, as affecting: RCW 28B.14C.080–28B.14C.130.

Chapter 28B.30

WASHINGTON STATE UNIVERSITY

Sections

28B.30.150	Regents—General powers and duties.
28B.30.215	Acceptance of certain federal aid.
28B.30.300	State treasurer to report annually on university assets held in trust.
28B.30.310	Land commissioner to report annually on university trust lands transactions.
28B.30.320	Repealed.
28B.30.600	Tree fruit research center facility, financing— Bonds, authorization conditional—Amount— Discharge.
28B.30.608	Tree fruit research center facility, financing—Security for bonds issued.
28B.30.614	Tree fruit research center facility, financing—Lease agreement prerequisite to sale of bonds—Disposition of lease payments.
28B.30.620	Tree fruit research center facility, financing— Alternatives authorized.
28B.30.700	Construction, remodeling, improvement, financing through bonds, authorized.
28B.30.720	Contracts, issuance of evidences of indebtedness, bonds, acceptance of grants.
28B.30.730	Bonds—Issuance, sale, form, term, interest, etc.— Covenants—Deposit of proceeds.
28B.30.740	Washington State University bond retirement fund—Composition—Pledge of general tuition fees.
28B.30.741	Washington State University bond retirement fund—Disposition of certain revenues from scientific school lands.
28B.30.742	Washington State University bond retirement fund—Disposition of certain revenues from agricultural college lands.
28B.30.750	Additional powers of board—Issuance of bonds, investments, transfer of funds, etc.
28B.30.760	Refunding bonds.
28B.30.770	Bonds not general obligations—Legislature may provide additional means of payment.
28B.30.780	Other laws not repealed or limited.

Bond issue of 1977 for the refunding of outstanding limited obligation revenue bonds of institutions of higher education: Chapter 28B.14C RCW.

Development of definitions, criteria and procedures for the operating cost of instruction (state universities): RCW 28B.15.070.

1977 Washington State University buildings and facilities financing act: Chapter 28B.31 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 upon request such reports as will be helpful in providing for the institution. [1977 c 75 § 21; 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.30.215 Acceptance of certain federal aid. 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 thereon as the secretary of agriculture may prescribe. [1977 c 75 § 22; 1969 ex.s. c 223 § 28B.30.215. Prior: 1907 c 198 § 2; RRS § 4586. Formerly RCW 28.80.200.]

28B.30.300 State treasurer to report annually on university assets held in trust. 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 close of each fiscal year, which shall contain a complete detailed statement as to the status of any university assets held in trust by the treasurer and the annual income therefrom. [1977 c 75 § 23; 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 university trust lands transactions. 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 close of each fiscal year, which shall contain a complete detailed statement of the current status of trust land sale contracts and income for the university from trust lands managed by the commissioner. [1977 c 75 § 24; 1969 ex.s. c 223 § 28B.30.310. Prior: 1899 c 9 § 1; RRS § 7849. Formerly RCW 28.80.240.]

28B.30.320 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.30.600 Tree fruit research center facility, financing—Bonds, authorization conditional—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 as now or hereafter amended and all costs incidental thereto, but only if the state finance committee determines that the interest on the bonds will be exempt from federal income tax. 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. [1977 c 32 § 1; 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.30.608 Tree fruit research center facility, financing—Security for bonds issued. Bonds issued under the provisions of RCW 28B.30.600 through 28B.30.619 as now or hereafter amended shall state that they are a general obligation 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. [1977 c 32 § 2; 1974 ex.s. c 109 § 5.]

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 as now or hereafter amended 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 occupancy of this facility by the United States Department of Agriculture and the National Weather Service for tree fruit research similar to the research performed at the Washington State University Tree Fruit Center. The lease payments by the federal government shall be in an amount at least equal to the amount required to provide for the amortization of the principal of and interest on the bonds authorized by RCW 28B.30.600 through 28B.30.619 as now or hereafter amended as certified by the state finance committee, in addition to custodial, maintenance and utility services costs. A portion of the annual lease payments received by the university equal to the amount required 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 state general fund. [1977 c 32 § 3; 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.30.620 Tree fruit research center facility, financing—Alternatives authorized. In the event the state finance committee determines that interest on the bonds authorized in RCW 28B.30.600 through 28B.30.619 as now or hereafter amended will not be exempt from federal income tax, Washington State University may issue its revenue bonds as provided in RCW 28B.10.300 through 28B.10.325 to pay the cost of the facilities authorized by RCW 28B.30.600 as now or hereafter amended, and the lease rental received from the federal government shall be retained by the university instead of being deposited in the state treasury as provided by RCW 28B.30.614 as now or hereafter amended.

In addition to the authority granted to the state treasurer by RCW 43.84.100, with the consent of the state finance committee the state treasurer may make a loan from funds in the state treasury in the manner generally prescribed by RCW 43.84.100 to the local construction fund established by Washington State University for the office-laboratory building authorized by RCW 28B.30.600 through 28B.30.619 as now or hereafter amended, should a determination be made for Washington State University to issue revenue bonds. [1977 c 32 § 4.]

28B.30.700 Construction, remodeling, improvement, financing through bonds, authorized.

Chapter not to repeal, override or limit other statutes or actions: RCW 28B.31.100.

28B.30.720 Contracts, issuance of evidences of indebtedness, bonds, acceptance of grants.

Chapter not to repeal, override or limit other statutes or actions: RCW 28B.31.100.

28B.30.730 Bonds—Issuance, sale, form, term, interest, etc.—Covenants—Deposit of proceeds.

Chapter not to repeal, override or limit other statutes or actions: RCW 28B.31.100.

28B.30.740 Washington State University bond retirement fund—Composition—Pledge of general tuition fees.

Chapter not to repeal, override or limit other statutes or actions: RCW 28B.31.100.

28B.30.741 Washington State University bond retirement fund—Disposition of certain revenues from scientific school lands.

Chapter not to repeal, override or limit other statutes or actions: RCW 28B.31.100.

28B.30.742 Washington State University bond retirement fund—Disposition of certain revenues from agricultural college lands.

Chapter not to repeal, override or limit other statutes or actions: RCW 28B.31.100.

28B.30.750 Additional powers of board—Issuance of bonds, investments, transfer of funds, etc.

Chapter not to repeal, override or limit other statutes or actions: RCW 28B.31.100.

28B.30.760 Refunding bonds.

Chapter not to repeal, override or limit other statutes or actions: RCW 28B.31.100.

28B.30.770 Bonds not general obligations—Legislature may provide additional means of payment.

Chapter not to repeal, override or limit other statutes or actions: RCW 28B.31.100.

28B.30.780 Other laws not repealed or limited.

Chapter not to repeal, override or limit other statutes or actions: RCW 28B.31.100.

Chapter 28B.31

1977 WASHINGTON STATE UNIVERSITY BUILDINGS AND FACILITIES FINANCING ACT

Sections

28B.31.010	Purpose—Bonds authorized—Amount—Payment.
28B.31.020	Bond anticipation notes—Authorized—Bond proceeds to apply to payment on.
28B.31.030	Form, terms, conditions, sale and covenants of bonds and notes—Pledge of state's credit.
28B.31.040	Disposition of proceeds from sale of bonds and notes.
28B.31.050	Administration of proceeds from bonds and notes.
28B.31.060	Washington State University bond retirement fund of 1977—Created—Purpose—Payment of interest and principal on bonds and notes.
28B.31.070	Transfer of moneys to state general fund from Washington State University building account.
28B.31.080	Bonds as legal investment for public funds.
28B.31.090	Prerequisite to bond issuance.

28B.31.100 Chapter not to repeal, override or limit other statutes or actions—Transfers under RCW 28B.31.070 as subordinate.

28B.31.010 Purpose—Bonds authorized—Amount—Payment. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for Washington State University, 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 four million four hundred thousand dollars, or so much thereof as shall be required to finance the capital projects relating to Washington State University as determined by the legislature in its capital appropriation act from time to time, to be paid and discharged in not more than thirty years of the date of issuance. [1977 1st ex.s. c 344 § 1.]

Severability—1977 1st ex.s. c 344: "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." [1977 1st ex.s. c 344 § 12.] This applies to RCW 28B.31.010, 28B.31.020, 28B.31.030, 28B.31.040, 28B.31.050, 28B.31.060, 28B.31.070, 28B.31.080, 28B.31.090 and 28B.31.100.

28B.31.020 Bond anticipation notes—Authorized—Bond proceeds to apply to payment on. When the state finance committee has determined to issue such general obligation bonds or a portion thereof as authorized in RCW 28B.31.010, 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 the principal of and redemption premium, if any, and interest on such notes shall be applied thereto when such bonds are issued. [1977 1st ex.s. c 344 § 2.]

Severability—1977 1st ex.s. c 344: See note following RCW 28B.31.010.

28B.31.030 Form, terms, conditions, sale and covenants of bonds and notes—Pledge of state's credit. The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds and/or the bond anticipation notes authorized by this chapter, 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. [1977 1st ex.s. c 344 § 3.]

Severability—1977 1st ex.s. c 344: See note following RCW 28B.31.010.

28B.31.040 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.31.020, the proceeds from the sale of the

bonds and/or bond anticipation notes authorized by this chapter, and any interest earned on such proceeds, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the board of regents of Washington State University may direct the state treasurer to deposit therein, shall be deposited in the Washington State University construction account of the general fund hereby created in the state treasury. [1977 1st ex.s. c 344 § 4.]

Severability—1977 1st ex.s. c 344: See note following RCW 28B.31.010.

28B.31.050 Administration of proceeds from bonds and notes. Subject to legislative appropriation, all proceeds of the bonds and/or bond anticipation notes authorized in this chapter shall be administered and expended by the board of regents of Washington State University 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. [1977 1st ex.s. c 344 § 5.]

Severability—1977 1st ex.s. c 344: See note following RCW 28B.31.010.

28B.31.060 Washington State University bond retirement fund of 1977—Created—Purpose—Payment of interest and principal on bonds and notes. The Washington State University bond retirement fund of 1977 is hereby created in the state treasury for the purpose of payment of the principal of and interest on the bonds authorized by this chapter.

Upon completion of the projects for which appropriations have been made by the legislature, any proceeds of the bonds and/or bond anticipation notes authorized by this chapter remaining in the Washington State University construction account shall be transferred by the board of regents to the Washington State University bond retirement fund of 1977 to reduce the transfer or transfers next required by RCW 28B.31.070.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amounts required in the next succeeding twelve months for the payment of the principal of and the interest coming due on such bonds and the dates on which such payments are due. The state treasurer, not less than thirty days prior to the date on which any such interest or principal and interest payment is due, shall withdraw from any general state revenues received in the state treasury and deposit in the Washington State University bond retirement fund of 1977 an amount equal to the amount certified by the state finance committee to be due on such payment date. [1977 1st ex.s. c 344 § 6.]

Severability—1977 1st ex.s. c 344: See note following RCW 28B.31.010.

28B.31.070 Transfer of moneys to state general fund from Washington State University building account. On or before June 30th of each year the board of regents of Washington State University shall cause to be accumulated in the Washington State University building account, from moneys transferred into said account

from the Washington State University bond retirement fund pursuant to RCW 28B.30.750(5), an amount at least equal to the amount required in the next succeeding twelve months for the payment of the principal of and interest on the bonds issued pursuant to this chapter. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the board of regents of Washington State University shall cause the amount so computed to be paid out of such building account to the state treasurer, for deposit into the general fund of the state treasury. [1977 1st ex.s. c 344 § 7.]

Severability—1977 1st ex.s. c 344: See note following RCW 28B.31.010.

28B.31.080 Bonds as legal investment for public funds. The bonds authorized by this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1977 1st ex.s. c 344 § 8.]

Severability—1977 1st ex.s. c 344: See note following RCW 28B.31.010.

28B.31.090 Prerequisite to bond issuance. The bonds authorized by this chapter shall be issued only after an officer of Washington State University, designated by the Washington State University board of regents, has certified, based upon his estimates of future tuition income and other factors, that an adequate balance will be maintained in the Washington State University building account to enable the board of regents to meet the requirements of RCW 28B.31.070 during the life of the bonds to be issued. [1977 1st ex.s. c 344 § 9.]

Severability—1977 1st ex.s. c 344: See note following RCW 28B.31.010.

28B.31.100 Chapter not to repeal, override or limit other statutes or actions—Transfers under RCW 28B.31.070 as subordinate. No provision of this chapter shall be deemed to repeal, override, or limit any provision of RCW 28B.15.310 or 28B.30.700 through 28B.30.780, nor any provision or covenant of the proceedings of the board of regents of Washington State University heretofore or hereafter taken in the issuance of its revenue bonds secured by a pledge of its general tuition fees and/or other revenues pursuant to such statutes. The obligation of the board of regents of Washington State University to make the transfers provided for in RCW 28B.31.070 shall be subject and subordinate to the lien and charge of such revenue bonds, and any revenue bonds hereafter issued, on such general tuition fees and/or other revenues pledged to secure such bonds, and on the moneys in the Washington State University building account and the Washington State University bond retirement fund. [1977 1st ex.s. c 344 § 10.]

Severability—1977 1st ex.s. c 344: See note following RCW 28B.31.010.

Chapter 28B.35
REGIONAL UNIVERSITIES

Sections

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Chapter as affecting Central Washington State College general tuition fee and normal school fund revenue bonds: RCW 28B.14C.120.

Chapter as affecting Eastern Washington State College general tuition fee and normal school fund revenue bonds: RCW 28B.14C.110.

Chapter as affecting Western Washington State College general tuition fee and normal school fund revenue bonds: RCW 28B.14C.100.

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Normal school grant to former state colleges of education: RCW 43.79.150.

Western Washington fund—Other revenue for support of Western Washington University: RCW 43.79.324.

28B.35.010 Designation. The regional universities shall be located and designated as follows: At Bellingham, Western Washington University; at Cheney, Eastern Washington University; at Ellensburg, Central Washington University. [1977 1st ex.s. c 169 § 44. Prior: 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, 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 28B.40.010, part; 28.81.010.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.050 Primary purposes—Eligibility requirements for designation as regional university. The primary purposes of the regional universities shall be to offer undergraduate and graduate education programs through the master's degree, including programs of a practical and applied nature, directed to the educational and professional needs of the residents of the regions they serve; to act as receiving institutions for transferring community college students; and to provide extended occupational and complementary studies programs that continue or are otherwise integrated with the educational services of the region's community colleges.

No college shall be eligible for designation as a regional university until it has been in operation for at least twenty years and has been authorized to offer master's degree programs in more than three fields. [1977 1st ex.s. c 169 § 2.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.100 Trustees—Appointment and term. The government of each of the regional universities 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. [1977 1st ex.s. c 169 § 45. Prior: 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 28B.40.100, part; RCW 28.81.020.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.105 Trustees—Organization and officers of board—Quorum. Each board of regional university 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. [1977 1st ex.s. c 169 § 46. Prior: 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 28B.40.105, part; 28.81.030 and 28.81.050(1), (2).]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169:
See notes following RCW 28B.10.016.

28B.35.110 Trustees—Meetings of board. Each board of regional university 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. [1977 1st ex.s. c 169 § 47. Prior: 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 28B.40.110, part; RCW 28.81.040, part.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169:
See notes following RCW 28B.10.016.

Open public meetings act: Chapter 42.30 RCW.

28B.35.120 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 regional universities:

(1) Shall have full control of the regional university and its property of various kinds.

(2) Shall employ the president of the regional university, 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 regional university, 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 regional university 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 regional university.

(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 regional university.

(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 regional university 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 regional university 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 regional university. [1977 1st ex.s. c 169 § 48. Prior: 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 28B.40.120, part; 28.81.050.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169:
See notes following RCW 28B.10.016.

28B.35.190 Trustees—Fire protection services. Each board of trustees of the regional universities 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 regional university;

(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. [1977 1st ex.s. c 169 § 49. Prior: 1970 ex.s. c 15 § 28. Formerly RCW 28B.40.190, part. Like section formerly RCW 28.81.190.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169:
See notes following RCW 28B.10.016.

28B.35.195 Treasurer—Appointment, term, duties, bonds. See RCW 28B.40.195.

28B.35.200 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 University, Eastern Washington University, or Western Washington University. [1977

1st ex.s. c 169 § 50. Prior: 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 28B.40.200, part; 28.81.052; 28.81.050(16).]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.205 Degrees through master's degrees authorized—Limitations. In addition to all other powers and duties given to them by law, Central Washington University, Eastern Washington University, and Western Washington University 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 regional university 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. [1977 1st ex.s. c 169 § 51. Cf: 1975 1st ex.s. c 232 § 1.]

Reviser's note: Compare RCW 28B.40.205 which was both repealed by 1977 1st ex.s. c 169 § 115, and amended in different respect by 1977 1st ex.s. c 201 § 1, each independent of the other.

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Council review of new degree programs, procedure: RCW 28B.80.035.

Degrees through master's degrees authorized—Limitations: RCW 28B.40.205.

28B.35.220 Nursing degrees authorized. In addition to all other powers and duties given to them by law, the boards of trustees of Central Washington University, Eastern Washington University, and Western Washington University 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. [1977 1st ex.s. c 169 § 52. Prior: 1969 ex.s. c 223 § 28B.40-.220; prior: 1967 c 47 § 9, part; 1963 c 109 § 1, part. Formerly RCW 28B.40.220, part; RCW 28.81.054, part.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.230 Certificates, diplomas—Signing—Contents. Every diploma issued by a regional university shall be signed by the chairman of the board of trustees and by the president of the regional university 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. [1977 1st ex.s. c 169 § 53. Prior: 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 28B.40.230, part; 28.81.056; 28.81.050(15).]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.300 Model schools and training departments—Purpose. A model school or schools or training departments may be provided for each regional university, 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. [1977 1st ex.s. c 169 § 54. Prior: 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 28B.40.300, part; 28.81.058; 28.81.050(12).]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.305 Model schools and training departments—Trustees to estimate number of pupils required. The board of trustees of any regional university having a model school or training department as authorized by RCW 28B.35.300, 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 regional university 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. [1977 1st ex.s. c 169 § 55. Prior: 1969 ex.s. c 223 § 28B.40.305; prior: 1907 c 97 § 1; RRS § 4612. Formerly RCW 28B.40.305, part; 28.81-.059; 28.81.050(13).]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.310 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 regional university the number of pupils required in order to maintain such facility: *Provided*, That the president of said regional university may refuse to accept any such pupil as in his judgment would tend to reduce the efficiency of said model school or training department. [1977 1st ex.s. c 169 § 56. Prior: 1969 ex.s. c 223 § 28B.40.310; prior: 1907 c 97 § 2; RRS § 4613. Formerly RCW 28B.40.310, part; 28.81.060.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.315 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 regional university 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. [1977 1st ex.s. c 169 § 57. Prior: 1969 ex.s. c 223 § 28B.40.315; prior: 1917 c 128 § 3; 1907 c 97 § 3; RRS § 4614. Formerly RCW 28B.40.315, part; 28.81-.061; RCW 28.81.050(14).]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.350 Suspension and expulsion. Any student may be suspended or expelled from any regional university who is found to be guilty of an infraction of the regulations of the institution. [1977 1st ex.s. c 169 § 58. Prior: 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 28B.40.350, part; 28.81.070.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.361 Exemption of certain veterans from payment of fees. The boards of trustees of each regional university may exempt from the payment of general tuition, operating fees, or services and activities fees, except for individual instruction fees, (1) 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: *Provided further*, That such exemptions shall be provided only to those persons otherwise covered who were enrolled in the regional universities on or before October 1, 1977, and (2) 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. [1977 1st ex.s. c 322 § 12; 1977 1st ex.s. c 169 § 59. Prior: 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 28B.40.361, part; 28.81.084.]

Severability—1977 1st ex.s. c 322: See note following RCW 28B.15.060.

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.370 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 regional university and The Evergreen State College shall be paid into the state treasury and these together with such normal school fund revenues as provided in RCW 28B.35.751 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 regional university and The Evergreen State College, if 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 regional university and The Evergreen State College shall be a prior lien and charge against all general tuition fees and above described normal school fund revenues of such institution. The state treasurer shall thereupon deposit the amounts so certified in the Eastern Washington University bond retirement fund, the Central Washington University bond retirement fund, the Western Washington University bond retirement fund, or The Evergreen State College bond retirement fund respectively, which funds are hereby created in the state treasury, such funds for the regional universities being redesignations for the Eastern Washington State College bond retirement fund, the Central Washington State College bond retirement fund, and the Western Washington State College bond retirement fund, respectively. 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 regional universities and The Evergreen State College 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 institution, 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 University capital projects account, the Central Washington University capital projects account, the Western Washington University capital projects account, or The Evergreen State College capital projects

account respectively, which accounts are hereby created in the general fund of the state treasury[,] such funds for the regional universities being redesignations for the Eastern Washington State College capital projects account, the Central Washington State College capital projects account, and the Western Washington State College capital projects account, respectively. 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. [1977 1st ex.s. c 169 § 79; 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 28B.40.370; RCW 28.81.085; 28.81.540.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169:
See notes following RCW 28B.10.016.

28B.35.380 Extension departments. In order to assist teachers in service, candidates for certificates, and others, each regional university 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 regional university 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 regional university to carry out its duties under this section. The head of the extension department of each regional university, 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. [1977 1st ex.s. c 169 § 60. Prior: 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 28B.40.380, part; 28.81.100, 28.71.080, 28.81.050, part.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169:
See notes following RCW 28B.10.016.

28B.35.390 Duties of president. The president of each regional university shall have general supervision of the university and see that all laws and rules of the board of trustees are observed. [1977 1st ex.s. c 169 § 61. Prior: 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 28B.40.390, part; 28.81.110.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169:
See notes following RCW 28B.10.016.

28B.35.400 Meetings of presidents. It shall be the duty of the presidents of the several regional universities to meet at least once annually to consult with each other relative to the management of the regional universities. [1977 1st ex.s. c 169 § 62.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169:
See notes following RCW 28B.10.016.

FINANCING BUILDINGS AND FACILITIES— 1961 ACT

28B.35.700 Construction, remodeling, improvement, financing, etc.—Authorized. The boards of trustees of the regional universities and of The Evergreen State College are empowered in accordance with the provisions of RCW 28B.35.700 through 28B.35.790, 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 universities and The Evergreen State College 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. [1977 1st ex.s. c 169 § 82; 1969 ex.s. c 223 § 28B.40.700. Prior: 1967 c 47 § 12; 1961 ex.s. c 14 § 1. Formerly RCW 28B.40.700; 28.81.500.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169:
See notes following RCW 28B.10.016.

28B.35.710 Definitions. The following terms, whenever used or referred to in RCW 28B.35.700 through 28B.35.790, 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 regional universities and The Evergreen State College.

(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 University bond retirement fund, Central Washington University bond retirement fund, Western Washington University bond retirement fund, and The Evergreen State College bond retirement fund, all as referred to in RCW 28B.35.370.

(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. [1977 1st ex.s. c 169 § 83; 1969 ex.s. c 223 § 28B.40.710. Prior: 1967 c 47 § 13; 1961 ex.s. c 14 § 2. Formerly RCW 28B.40.710; 28.81.510.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169:
See notes following RCW 28B.10.016.

28B.35.720 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 university or 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. [1977 1st ex.s. c 169 § 84; 1969 ex.s. c 223 § 28B.40.720. Prior: 1961 ex.s. c 14 § 3. Formerly RCW 28B.40.720; 28.81.520.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169:
See notes following RCW 28B.10.016.

28B.35.730 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 university or 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 university or college by the chairman of the board, attested by the secretary of the board, have the seal of the university or 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.35.700 through 28B.35.790, as now or hereafter amended, 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 university or college issuing the bonds to the bond retirement fund of such university or 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 university or college issuing the bonds and shall be used solely for paying the costs of the projects. [1977 1st ex.s. c 169 § 85; 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 28B.40.730; 28.81.530.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169:
See notes following RCW 28B.10.016.

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 regional universities and The Evergreen State College: RCW 28B.40.370.

28B.35.740 Disposition of general tuition fees and normal school fund revenues—Bond payments, etc. See RCW 28B.35.370.

28B.35.750 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 university or 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. [1977 1st ex.s. c 169 § 86; 1969 ex.s. c 223 § 28B.40.750. Prior: 1961 ex.s. c 14 § 6. Formerly RCW 28B.40.750; RCW 28.81.550.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.751 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 University, Central Washington University, Western Washington University 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.35.750, as now or hereafter amended. Eastern Washington University, Central Washington University, Western Washington University, and The Evergreen State College shall be credited with one-fourth of the total amount: *Provided*, That Eastern

Washington University, Central Washington University and Western Washington University 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. [1977 1st ex.s. c 169 § 87; 1969 ex.s. c 223 § 28B.40.751. Prior: 1967 c 47 § 15; 1965 c 76 § 1. Formerly RCW 28B.40.751; RCW 28.81.551.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.760 Additional powers of board—Issuance of bonds, investments, transfer of funds, etc. The board of any such university or 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 or universities' capital projects account to the college's or universities' 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. [1977 1st ex.s. c 169 § 88; 1969 ex.s. c 223 § 28B.40.760. Prior: 1961 ex.s. c 14 § 7. Formerly RCW 28B.40.760; 28.81.560.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.770 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.35.700 through 28B.35.790 as now or hereafter amended 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 or university 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 or university. [1977 1st ex.s. c 169 § 89; 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 28B.40.770; 28.81.570.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

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.35.780 Bonds not general obligation—Legislature may provide additional means of payment. The bonds authorized to be issued pursuant to the provisions of RCW 28B.35.700 through 28B.35.790 as now or hereafter amended 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.35.700 through 28B.35.790 as now or hereafter amended 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. [1977 1st ex.s. c 169 § 90; 1969 ex.s. c 223 § 28B.40.780. Prior: 1961 ex.s. c 14 § 9. Formerly RCW 28B.40.780; 28.81.580.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.35.790 Other laws not repealed or limited. RCW 28B.35.700 through 28B.35.790 as now or hereafter amended is concurrent with other legislation with reference to providing funds for the construction of buildings at the regional universities or The Evergreen State College and is not to be construed as repealing or limiting any existing provision of law with reference thereto. [1977 1st ex.s. c 169 § 91; 1969 ex.s. c 223 § 28B.40.790. Prior: 1961 ex.s. c 14 § 10. Formerly RCW 28B.40.790; RCW 28.81.590.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Chapter 28B.40

THE EVERGREEN STATE COLLEGE

(Formerly: State colleges)

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Bond issue of 1977 for the refunding of outstanding limited obligation revenue bonds of institutions of higher education: Chapter 28B.14C RCW.

Chapter as affecting The Evergreen State College general tuition fee revenue bonds: RCW 28B.14C.130.

Development of definitions, criteria and procedures for the operating cost of instruction: RCW 28B.15.070.

28B.40.010 Designation. The only state college in Washington shall be in Thurston county, The Evergreen State College. [1977 1st ex.s. c 169 § 64; 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.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.40.100 Trustees—Appointment and term. The government of The Evergreen State College 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. [1977 1st ex.s. c 169 § 65; 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.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

~~Savings~~—~~Severability~~—1973 c 62: See notes following RCW 28B.10.200.

28B.40.105 Trustees—Organization and officers of board—Quorum. The board of The Evergreen 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. The 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. [1977 1st ex.s. c 169 § 66; 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).]

~~Severability~~—~~Nomenclature~~—~~Savings~~—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.40.110 Trustees—Meetings of board. The board of The Evergreen 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. [1977 1st ex.s. c 169 § 67; 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.]

~~Severability~~—~~Nomenclature~~—~~Savings~~—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Open public meetings act: Chapter 42.30 RCW.

28B.40.115 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.40.120 Trustees—General powers and duties of board. In addition to any other powers and duties prescribed by law, the board of trustees of The Evergreen State College:

(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. [1977 1st ex.s. c 169 § 68; 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.]

~~Severability~~—~~Nomenclature~~—~~Savings~~—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.40.130 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.40.190 Trustees—Fire protection services. The board of trustees of The Evergreen State College 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. [1977 1st ex.s. c 169 § 69; 1970 ex.s. c 15 § 28. Like section formerly RCW 28.81.190.]

~~Severability~~—~~Nomenclature~~—~~Savings~~—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Severability—1970 ex.s. c 15: See note following RCW 28A.02.070.

28B.40.195 Treasurer—Appointment, term, duties, bonds. Each board of state college trustees shall appoint a treasurer who shall be the financial officer of the board and who shall hold office during the pleasure of the board. Each 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 trustees require: *Provided*, That the respective colleges shall pay the fees for any such bonds. [1977 c 52 § 1.]

Regional universities—Designation: RCW 28B.35.010.

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 The Evergreen State College. [1977 1st ex.s. c 169 § 70; 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).]

Severability—**Nomenclature**—**Savings**—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

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 before any degree is authorized under this section it shall be subject to the review and recommendation of the council for postsecondary education. [1977 1st ex.s. c 201 § 1; 1975 1st ex.s. c 232 § 1.]

Reviser's note: The amendment of this section by 1977 1st ex.s. c 201 § 1 does not take cognizance of the section's repeal by 1977 1st ex.s. c 169 § 115 and its reenactment in 1977 1st ex.s. c 169 § 51; see RCW 28B.35.205.

Severability—1977 1st ex.s. c 201: See note following RCW 28B.80.035.

Council review of new degree programs, procedure: RCW 28B.80.035.

Degrees through master's degrees authorized—Limitations: RCW 28B.35.205.

28B.40.205 Degrees through master's degrees authorized—Limitations. [1975 1st ex.s. c 232 § 1.] Repealed by 1977 1st ex.s. c 169 § 115.

Reviser's note: This section was also amended by 1977 1st ex.s. c 201 § 1 without cognizance of its repeal and reenactment by 1977 1st ex.s. c 169; see RCW 28B.35.205.

28B.40.220 Nursing degrees authorized. In addition to all other powers and duties given to them by law, the board of trustees of 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. [1977 1st ex.s. c 169 § 71; 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.]

Severability—**Nomenclature**—**Savings**—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.40.225 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.40.230 Certificates, diplomas—Signing—Contents. Every diploma issued by The Evergreen State College shall be signed by the chairman of the board of trustees and by the president of the state college, 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. [1977 1st ex.s. c 169 § 72; 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).]

Severability—**Nomenclature**—**Savings**—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.40.300 Model schools and training departments—Purpose. A model school or schools or training departments may be provided for The Evergreen 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. [1977 1st ex.s. c 169 § 73; 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).]

Severability—**Nomenclature**—**Savings**—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.40.305 Model schools and training departments—Trustees to estimate number of pupils required. The board of trustees of The Evergreen State College, if 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. [1977 1st ex.s. c 169 § 74; 1969 ex.s. c 223 § 28B.40.305. Prior: 1907 c 97 § 1; RRS § 4612. Formerly RCW 28.81.059; 28.81.050(13).]

Severability—**Nomenclature**—**Savings**—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

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 The Evergreen 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. [1977 1st ex.s. c 169 § 75; 1969 ex.s. c 223 § 28B.40.310. Prior: 1907 c 97 § 2; RRS § 4613. Formerly RCW 28.81.060.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

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 The Evergreen State College, since 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. [1977 1st ex.s. c 169 § 76; 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).]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.40.350 Suspension and expulsion. Any student may be suspended or expelled from The Evergreen State College who is found to be guilty of an infraction of the regulations of the institution. [1977 1st ex.s. c 169 § 77; 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.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.40.361 Exemption of certain veterans from payment of fees. The board of trustees of The Evergreen State College may exempt from the payment of general tuition, operating fees, or services and activities fees, except for individual instruction fees, (1) 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: *Provided further*, That such exemptions shall be provided only to those persons otherwise covered who were enrolled in state colleges on or before October 1, 1977, and (2) 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. [1977 1st ex.s. c 322 § 11; 1977 1st ex.s. c 169 § 78; 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—1977 1st ex.s. c 322: See note following RCW 28B.15.060.

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

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. See RCW 28B.35.370.

28B.40.380 Extension departments. In order to assist teachers in service, candidates for certificates, and others, The Evergreen 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 extension work, the state board of education shall make a definite assignment of territory to said institution: *Provided*, That such assignment of territory shall not preclude any other contractual arrangements initiated by The Evergreen State College to carry out its duties under this section. The head of the extension department of the 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. [1977 1st ex.s. c 169 § 80; 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.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28B.40.390 Duties of president. The president of The Evergreen State College shall have general supervision of the college and see that all laws and rules of the board of trustees are observed. [1977 1st ex.s. c 169 § 81; 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.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

28B.40.400 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

FINANCING BUILDINGS AND FACILITIES— 1961 ACT

28B.40.700 Construction, remodeling, improvement, financing, etc.—Authorized. See RCW 28B.35.700.

28B.40.710 Definitions. See RCW 28B.35.710.

28B.40.720 Contracts, issuance of evidences of indebtedness, bonds, acceptance of grants. See RCW 28B.35.720.

28B.40.730 Bonds—Issuance, sale, form, term, interest, etc.—Covenants—Deposit of proceeds. See RCW 28B.35.730.

28B.40.740 Disposition of general tuition fees and normal school fund revenues—Bond payments, etc. See RCW 28B.35.370.

28B.40.750 Funds payable into bond retirement funds—Pledge of general tuition fees. See RCW 28B.35.750.

28B.40.751 Disposition of certain normal school fund revenues. See RCW 28B.35.751.

28B.40.760 Additional powers of board—Issuance of bonds, investments, transfer of funds, etc. See RCW 28B.35.760.

28B.40.770 Refunding bonds. See RCW 28B.35.770.

28B.40.780 Bonds not general obligation—Legislature may provide additional means of payment. See RCW 28B.35.780.

28B.40.790 Other laws not repealed or limited. See RCW 28B.35.790.

Chapter 28B.50

COMMUNITY COLLEGE ACT OF 1967 (AND COMMUNITY COLLEGES GENERALLY)

Sections

- 28B.50.070 College board—Organization—Meetings—Quorum—Annual report—Fiscal year.
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- 28B.50.860 Faculty tenure—Tenure retained upon administrative appointment.
- 28B.50.870 Faculty tenure—For certain educational programs operated in state correctional institutions.

Development of definitions, criteria and procedures for the operating cost of instruction: RCW 28B.15.070.

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 each year which report shall contain such information as may be requested by the governor. The fiscal year of the college board shall conform to the fiscal year of the state. [1977 c 75 § 26; 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.

Fiscal year defined: RCW 43.88.020.

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, except such property as is received by a community college district in accordance with RCW 28B.50.140(8), 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;

(13) Notwithstanding the provisions of subsection (12) of this section, 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 and may 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.

The college board shall have the power of eminent domain. [1977 1st ex.s. c 282 § 4; 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.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Severability—1977 1st ex.s. c 282: See note following RCW 28B.50.870.

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 abolished and responsibilities, personnel, property, equipment and functions transferred: RCW 28C.04.500 and 28C.04.510.

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 plan" defined: RCW 28C.04.020.

Waiver of tuition and fees for needy and disadvantaged students: RCW 28B.15.530.

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 and their dependents, and department of defense civilians and their dependents, at any geographical location: *Provided*, That such programs shall be limited to those colleges which conducted programs for United States military personnel prior to January 1, 1977: *Provided further*, 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. [1977 1st ex.s. c 131 § 1; 1973 c 105 § 1.]

Adult high school completion programs, authority to conduct: RCW 28C.04.160.

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 for terms commencing October 1st of the year in which appointed. 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. [1977 1st ex.s. c 282 § 2; 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.]

Severability—1977 1st ex.s. c 282: See note following RCW 28B.50.870.

Effective date—1977 1st ex.s. c 282 §§ 2 and 3: "Sections 2 and 3 of this 1977 amendatory act shall not take effect until January 1, 1978." [1977 1st ex.s. c 282 § 9.] This applies to RCW 28B.50.100 and 28B.50.101.

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.50.101 College board—Terms extended—Effective January 1, 1978. Notwithstanding any other provisions of law, the terms for present members of the

community college boards of trustees shall be extended for a period of six months, or not later than October 1st of the year of expiration, to carry out the purposes of RCW 28B.50.100 as amended by section 2, chapter 282, Laws of 1977 1st ex. sess. [1977 1st ex.s. c 282 § 3.]

Severability—1977 1st ex.s. c 282: See note following RCW 28B.50.870.

Effective date—1977 1st ex.s. c 282 §§ 2 and 3: See note following RCW 28B.50.100.

28B.50.130 Community college boards of trustees—Organization—Bylaws, rules and regulations—Chairman, vice chairman, election and term—Secretary—Quorum—Reports—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 such reports to the college board as may be requested by the college board. The fiscal year of the district boards shall conform to the fiscal year of the state. [1977 c 75 § 27; 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 43.88.020.

28B.50.140 Community college boards of trustees—Powers and duties (as amended by 1977 c 75). 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 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. [1977 c 75 § 28; 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.]

28B.50.140 Community college boards of trustees—Powers and duties (as amended by 1977 1st ex.s. c 282). 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) Notwithstanding any other provision of law, may offer educational services on a contractual basis other than the tuition and fee basis set forth in chapter 28B.15 RCW for a special fee to private or governmental entities, consistent with rules and regulations adopted by the state board for community college education: *Provided*, That the whole of such special fee shall go to the college district and be not less than the full instructional costs of such services: *Provided further*, That enrollments generated hereunder shall not be counted toward the official enrollment level of the college district for state funding purposes.

(17) Shall be authorized to pay dues to any association of trustees that may be formed by the various boards of trustees; such association may expend any or all of such funds to submit biennially, or more often if necessary, to the governor and to the legislature, the recommendations of the association regarding changes which would affect the efficiency of such association; and

(18) Shall perform any other duties and responsibilities imposed by law or rule and regulation of the state board. [1977 1st ex.s. c 282 § 5; 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.]

Reviser's note: RCW 28B.50.140 was amended twice during the 1977 regular and first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Severability—1977 1st ex.s. c 282: See note following RCW 28B.50.870.

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.

1975 Vocational education act: Chapter 28C.04 RCW.

Waiver of tuition and fees for needy and disadvantaged students: RCW 28B.15.530.

28B.50.142 Treasurer of board—Duties—Bond. Each board of community college trustees shall appoint a treasurer who shall be the financial officer of the board and who shall hold office during the pleasure of the board. Each treasurer shall render a true and faithful account of all moneys received and paid out by him or her, comply with the provisions of RCW 28B.50.143, and shall give bond for the faithful performance of the duties of his or her office in such amount as the trustees require: *Provided*, That the respective community colleges shall pay the fees for any such bonds. [1977 1st ex.s. c 331 § 1.]

Effective date—Severability—1977 1st ex.s. c 331: See notes following RCW 28B.15.031.

28B.50.143 Vendor payments, advances or reimbursements for. In order that each community college treasurer appointed in accordance with RCW 28B.50.142 may make vendor payments, the state treasurer will honor warrants drawn by each community college providing for one initial advance on September 1, 1977, of the current biennium and on July 1 of each succeeding biennium from the state general fund in an amount equal to ten percent of each institution's average monthly allotment for such budgeted biennium expenditures as certified by the office of program planning and fiscal management, and at the conclusion of each such

initial month, and for each succeeding month of any biennium, the state treasurer will reimburse each institution for each expenditure incurred and reported monthly by each community college treasurer in accordance with chapter 43.83 RCW: *Provided*, That the reimbursement to each institution for actual expenditures incurred in the final month of each biennium shall be less the initial advance. [1977 1st ex.s. c 331 § 2.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Effective date—Severability—1977 1st ex.s. c 331: See notes following RCW 28B.15.031.

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. 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. [1977 1st ex.s. c 282 § 6; 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.

Severability—1977 1st ex.s. c 282: See note following RCW 28B.50.870.

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.

Transfer of moneys in community college bond retirement fund to state general fund: RCW 28B.50.401 and 28B.50.402.

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.

Transfer of moneys in community college bond retirement fund to state general fund: RCW 28B.50.401 and 28B.50.402.

28B.50.401 Transfer of moneys in community college bond retirement fund to state general fund—Purpose. The state finance committee has heretofore refunded, pursuant to RCW 28B.50.403 through 28B.50.407, all of the outstanding general tuition fee bonds of the community college board payable from the community college bond retirement fund. By reason of such refunding said tuition fee bonds are no longer deemed to be outstanding and moneys presently on deposit in said bond retirement fund are no longer needed to pay and secure the payment of such refunded tuition fee bonds. [1977 1st ex.s. c 223 § 1.]

Severability—1977 1st 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." [1977 1st ex.s. c 223 § 4.] This applies to RCW 28B.50.401 and 28B.50.402.

28B.50.402 Transfer of moneys in community college bond retirement fund to state general fund—Directive—Exception. Notwithstanding anything to the contrary contained in RCW 28B.50.360(1) and (2) and in RCW 28B.50.370, all moneys on deposit on or before June 30, 1977, in the community college bond retirement fund, shall be transferred by the state treasurer to the state general fund, except for those moneys appropriated by section 17, chapter 1, Laws of 1977. [1977 1st ex.s. c 223 § 2.]

Severability—1977 1st ex.s. c 223: See note following RCW 28B.50.401.

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; professional leaves for personnel consistent with the provisions of RCW 28B.10.650; leaves for illness, injury, bereavement and emergencies, and except as otherwise in this section provided, all 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. [1977 1st ex.s. c 173 § 2; 1975 1st ex.s. c 275 § 148; 1973 c 62 § 22; 1969 ex.s. c 283 § 7. Formerly RCW 28.85.551.]

Effective date—Severability—1977 1st ex.s. c 173: See notes following RCW 28B.10.650.

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

28B.50.590 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.50.750 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.50.860 Faculty tenure—Tenure retained upon administrative appointment. A tenured faculty member, upon appointment to an administrative appointment shall be allowed to retain his tenure. [1977 1st ex.s. c 282 § 7; 1969 ex.s. c 283 § 38. Formerly RCW 28.85.860.]

Severability—1977 1st ex.s. c 282: See note following RCW 28B.50.870.

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

28B.50.870 Faculty tenure—For certain educational programs operated in state correctional institutions. The district board of trustees of any community college district currently operating an educational program with funds provided by another state agency, including federal funds, which program has been in existence for five or more years under the administration of one or more community college districts, shall provide for the award or denial of tenure to anyone who holds a special faculty appointment in such curricular program and for as long as the program continues to be funded in such manner, utilizing the prescribed probationary processes and procedures set forth in this chapter with the exception that no student representative shall be required to serve on the review committee defined in RCW 28B.50.851: *Provided*, That such review processes and procedures shall not be applicable to faculty members whose contracts are renewed after the effective date of this 1977 amendatory act and who have completed at least three consecutive years of satisfactory full time service in such program, who shall be granted tenure by the community college district: *Provided further*, That faculty members who have completed one year or more of satisfactory full time service in such program shall be credited with such service for the purposes of this section: *Provided further*, That provisions relating to tenure for faculty under the provisions of this section shall be distinct from provisions relating to tenure for other faculty of the community college district and faculty appointed to such special curricular program shall be treated as a separate unit as respects selection, retention, reduction in force or dismissal hereunder: *And provided further*, That the provisions of this section shall only be applicable to faculty holding a special faculty appointment in an educational program operated in a state correctional institution pursuant to a written contract with a community college district. [1977 1st ex.s. c 282 § 1.]

Reviser's note: Phrase "the effective date of this 1977 amendatory act": Except for RCW 28B.50.100 and 28B.50.101 which were effective January 1, 1978, (see note following RCW 28B.50.100) the effective date of 1977 1st ex.s. c 282 (RCW 28B.50.870, 28B.50.090, 28B.50.140, 28B.50.300, 28B.50.860 and to the repeal of RCW 28B.50.570, 28B.50.590, 28B.50.750 and 28B.56.060) was September 21, 1977.

Severability—1977 1st ex.s. c 282: "If any provision of this 1977 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." [1977 1st ex.s. c 282 § 10.] This applies to RCW 28B.50.090, 28B.50.100, 28B.50.101, 28B.50.140, 28B.50.300, 28B.50.860, 28B.50.870 and to the repeal of RCW 28B.50.570, 28B.50.590, 28B.50.750 and 28B.56.060.

Chapter 28B.56

1972 COMMUNITY COLLEGES FACILITIES AID—BOND ISSUE

Sections

28B.56.020 Bonds authorized—Payment—Limitations.

28B.56.060 Repealed.

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 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. [1977 1st ex.s. c 242 § 5; 1972 ex.s. c 133 § 2.]

Severability—1977 1st ex.s. c 242: See note following RCW 43.83A.020.

28B.56.060 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 28B.57

1975 COMMUNITY COLLEGE SPECIAL CAPITAL PROJECTS BOND ACT

Sections

- 28B.57.050 Disposition of proceeds—1975 community college capital construction account, created, use.
28B.57.070 1975 community college capital construction bond retirement fund—Created—Purpose.

28B.57.050 Disposition of proceeds—1975 community college capital construction account, created, use.

Disposition of proceeds from sale of bonds and notes—1977 community college capital projects bond act: RCW 28B.59B.040.

28B.57.070 1975 community college capital construction bond retirement fund—Created—Purpose.

Disposition of proceeds from sale of bonds and notes—1977 community college capital projects bond act: RCW 28B.59B.040.

Chapter 28B.59B

1977 COMMUNITY COLLEGE CAPITAL PROJECTS BOND ACT

Sections

- 28B.59B.010 Purpose—Bonds authorized—Amount—Conditions.
28B.59B.020 Bond anticipation notes—Authorized—Bond proceeds to apply to payment on.
28B.59B.030 Form, terms, conditions, sale, redemption and covenants of bonds and notes—Pledge of state's credit.
28B.59B.040 Disposition of proceeds from sale of bonds and notes.
28B.59B.050 Administration of proceeds from bonds and notes.
28B.59B.060 Payment of the principal and interest on bonds and notes.
28B.59B.070 Moneys to be transferred from community college account to state general fund.
28B.59B.080 Bonds as legal investment for public funds.
28B.59B.090 Prerequisite to bond issuance.

28B.59B.010 Purpose—Bonds authorized—Amount—Conditions. For the purpose of financing 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 as determined by the legislature in its capital appropriations act, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of seven million five hundred thousand dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation, and these 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. [1977 1st ex.s. c 346 § 1.]

Severability—1977 1st ex.s. c 346: "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." [1977 1st ex.s. c 346 § 11.] This applies to RCW 28B.59B.010, 28B.59B.020, 28B.59B.030, 28B.59B.040, 28B.59B.050, 28B.59B.060, 28B.59B.070, 28B.59B.080 and 28B.59B.090.

28B.59B.020 Bond anticipation notes—Authorized—Bond proceeds to apply to payment on. 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. [1977 1st ex.s. c 346 § 2.]

Severability—1977 1st ex.s. c 346: See note following RCW 28B.59B.010.

28B.59B.030 Form, terms, conditions, sale, redemption and covenants of bonds and notes—Pledge of state's credit. The state finance committee is authorized to determine the aggregate amounts, dates, form, terms, conditions, denominations, interest rates, maturities, rights and manner of redemption prior to maturity, registration privileges, place(s) of payment and covenants of such 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, issuance and redemption.

Each such bond and bond anticipation note shall state that it is a general obligation of the state of Washington, shall contain a pledge of the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain the state's unconditional promise to pay such principal and interest as the same shall become due. [1977 1st ex.s. c 346 § 3.]

Severability—1977 1st ex.s. c 346: See note following RCW 28B.59B.010.

28B.59B.040 Disposition of proceeds from sale of bonds and notes. 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: *Provided*, That such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal of and interest on any outstanding bond anticipation notes, together with accrued interest on the bonds received from the purchasers upon their delivery, shall be deposited in the 1975 community college capital construction bond retirement fund. [1977 1st ex.s. c 346 § 4.]

Severability—1977 1st ex.s. c 346: See note following RCW 28B.59B.010.

1975 Community college capital construction account—Created—Use: RCW 28B.57.050.

1975 Community college capital construction bond retirement fund—Created—Purpose: RCW 28B.57.070.

28B.59B.050 Administration of proceeds from bonds and notes. Subject to legislative appropriation, all principal proceeds of the bonds and/or bond anticipation notes 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 their sale and issuance. [1977 1st ex.s. c 346 § 5.]

Severability—1977 1st ex.s. c 346: See note following RCW 28B.59B.010.

28B.59B.060 Payment of the principal and interest on bonds and notes. 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 redemption premium, if any, and interest on the bonds and/or the bond anticipation notes 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. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, 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 to be due on such payment date. [1977 1st ex.s. c 346 § 6.]

Severability—1977 1st ex.s. c 346: See note following RCW 28B.59B.010.

28B.59B.070 Moneys to be transferred from community college account to state general fund. 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. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw said sum from the community college capital projects account and deposit said sum in the state general fund. [1977 1st ex.s. c 346 § 7.]

Severability—1977 1st ex.s. c 346: See note following RCW 28B.59B.010.

28B.59B.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. [1977 1st ex.s. c 346 § 8.]

Severability—1977 1st ex.s. c 8: See note following RCW 28B.59B.010.

28B.59B.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 anticipated 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.59B.070 during the life of the bonds proposed to be issued. [1977 1st ex.s. c 346 § 9.]

Severability—1977 1st ex.s. c 346: See note following RCW 28B.59B.010.

Chapter 28B.80

COUNCIL FOR POSTSECONDARY EDUCATION IN THE STATE OF WASHINGTON

(Formerly: Council on higher education in the state of Washington)

Sections

- 28B.80.030 Functions generally.
- 28B.80.035 Council review of new degree programs, procedure.
- 28B.80.040 Members—Selection—Special duties of certain public officials as members.
- 28B.80.100 Repealed.

Development of definitions, criteria and procedures for the operating cost of instruction (state universities): RCW 28B.15.070.

General tuition and fees for residents of British Columbia, Canada—Limitations—Program review: RCW 28B.15.710.

Remunerated professional leaves for faculty member of universities, state colleges and community colleges—Conditions: RCW 28B.10.650.

28B.80.030 Functions generally.

Recommendations for adjustments in the amounts of tuition and operating fees: RCW 28B.15.075.

28B.80.035 Council review of new degree programs, procedure. In its review of new degree programs, the council for postsecondary education shall determine if a proposed new program will require appropriations in the current or succeeding fiscal period, or both, which would not be required were the program not initiated. Upon making its recommendation, the council shall transmit copies, with its estimate of the fiscal impact of the program, to the governor and to the appropriate policy and

fiscal committees of the house of representatives and the senate. [1977 1st ex.s. c 201 § 2.]

Severability—1977 1st ex.s. c 201: "If any provision of this 1977 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." [1977 1st ex.s. c 201 § 3.] This applies to RCW 28B.40.205 and 28B.80.035.

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 state universities, regional universities, and The Evergreen State College 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. [1977 1st ex.s. c 169 § 43; 1975 1st ex.s. c 132 § 4; 1969 ex.s. c 277 § 4. Formerly RCW 28.89.040.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

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

Chapter 28B.81

COMMISSION ON HIGHER EDUCATION

Sections

28B.81.090 Repealed.

28B.81.090 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 28C

VOCATIONAL EDUCATION

Chapters

28C.50 1977 Bond issue for commission for vocational education for state fire service training center.

Chapter 28C.50

1977 BOND ISSUE FOR COMMISSION FOR VOCATIONAL EDUCATION FOR STATE FIRE SERVICE TRAINING CENTER

Sections

28C.50.010 Bonds authorized—Amount—Conditions.
 28C.50.020 Bond anticipation notes—Authorized—Payment.
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28C.50.010 Bonds authorized—Amount—Conditions. For the purpose of providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, furnishing and equipping of a state fire service training center for the commission for vocational education, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one million dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation, and these 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. [1977 1st ex.s. c 349 § 1.]

28C.50.020 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 28C.50.010, 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 of and redemption premium, if any, and interest on such notes shall be applied thereto when such bonds are issued. [1977 1st ex.s. c 349 § 2.]

28C.50.030 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 28C.50.010 and 28C.50.020, 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. [1977 1st ex.s. c 349 § 3.]

28C.50.040 Disposition of proceeds from sale of bonds and notes—Use—Account created. Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 28C.50.020, 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 fire training construction account of the general fund hereby created 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. [1977 1st ex.s. c 349 § 4.]

28C.50.050 1977 state fire service training center bond retirement fund—Created—Purpose. The 1977 state fire service training center 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 or, if the legislature so determines, for any bonds and notes hereafter authorized and issued for the commission for vocational education.

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. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1977 state fire service training center bond retirement fund an amount equal to the amount certified by the state finance committee to be due on such payment date. [1977 1st ex.s. c 349 § 5.]

28C.50.060 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. [1977 1st ex.s. c 349 § 6.]

28C.50.900 Severability—1977 1st ex.s. c 349. 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. [1977 1st ex.s. c 349 § 8.]

Title 29 ELECTIONS

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Chapter 29.01 DEFINITIONS

Sections

29.01.006	"Ballot" and related terms.
29.01.090	"Major political party"

29.01.006 "Ballot" and related terms. As used in this title:

(1) "Ballot" shall mean a paper ballot, a voting machine diagram, a ballot label, a ballot book, a ballot page, or any combination thereof as the context may imply;

(2) "Paper ballot" shall mean a piece of paper whereon the candidates and measures to be voted upon for a particular election or a primary appear and upon which a voter may directly indicate a vote for any candidate or for or against any measure;

(3) "Voting machine diagram" means an illustration of a voting machine complete with ballot labels prepared for a particular election or a primary;

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

(5) "Ballot label" means the card or paper containing the names of offices and candidates and the statements of measures to be voted upon;

(6) "Ballot page" means the pages on the vote recorder used to display the printed ballot titles and the names of candidates together with properly aligned numbers of response positions;

(7) "Chad" means the piece [piece] of material which is removed or partially removed when punching a hole or notch in a prescored ballot card. [1977 1st ex.s. c 361 § 1.]

Effective date—1977 1st ex.s. c 361: "This 1977 amendatory act shall take effect January 1, 1978." [1977 1st ex.s. c 361 § 113.]

Severability—1977 1st ex.s. c 361: "If any provision of this 1977 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." [1977 1st ex.s. c 361 § 112.]

29.01.090 "Major political party". "Major political party" means a political party of which at least one nominee for president, vice president, United States senator, or a state-wide office received at least five percent of the total vote cast at the last preceding state general election in an even-numbered year: *Provided*, That any political party qualifying as a major political party under the previous subsection (2) or subsection (3) of this section prior to its 1977 amendment shall retain such status until after the next state general election following June 30, 1977. [1977 1st ex.s. c 329 § 9; 1965 c 9 § 29.01.090. Prior: 1907 c 209 § 6, part; RRS § 5183, part.]

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

Political parties: Chapter 29.42 RCW.

**Chapter 29.04
GENERAL PROVISIONS**

Sections

- 29.04.020 County auditor designated supervisor of certain primaries and elections.
- 29.04.030 Prevention and correction of election frauds and errors.
- 29.04.040 Precincts—Number of voters—Dividing, altering, or combining—Creating new precincts (as amended by 1977 1st ex.s. c 128).

- 29.04.040 Precincts—Number of voters—Dividing, altering, or combining—Creating new precincts (as amended by 1977 1st ex.s. c 361).
- 29.04.050 Precincts—Restrictions on precinct boundaries—Designated by number.
- 29.04.055 Combining or dividing precincts.
- 29.04.130 Maps of precinct boundaries—Census correspondence lists—Duties of county auditor—Distribution—Public record—Copies.
- 29.04.140 Maps and census correspondence lists—Apportionment—Duties of secretary of state.
- 29.04.160 Computer tape or data file of records of registered voters—Master state-wide tape or file to be furnished to political parties—Duplicate copy to statute law committee—Restrictions and penalties.

29.04.020 County auditor designated supervisor of certain primaries and elections. The county auditor of each county shall be ex officio the supervisor of all primaries and elections, general or special, and it shall be his duty to provide places for holding such primaries and elections; to appoint the precinct election officers; to provide for their compensation; to provide ballot boxes and ballots or voting machines, poll books, or precinct lists of registered voters, and tally sheets, and deliver them to the precinct election officers at the polling places; to publish and post notices of calling such primaries and elections in the manner provided by law: *Provided*, That notice of a general election held in an even-numbered year shall indicate that the office of precinct committeeman will be on the ballot; and to apportion to each city, town, or district, its share of the expense of such primaries and elections: *Provided*, That this section shall not apply to general or special elections for any city, town, or district which is not subject to RCW 29.13.010 and 29.13.020, but all such elections shall be held and conducted at the time, in the manner, and by the officials (with such notice, requirements for filing for office, and certifications by local officers) as provided and required by the laws governing such elections. [1977 1st ex.s. c 361 § 2; 1971 ex.s. c 202 § 1; 1965 c 123 § 1; 1965 c 9 § 29.04.020. Prior: 1947 c 182 § 1, part; Rem. Supp. 1947 § 5166–10, part; prior: 1945 c 194 § 3, part; 1941 c 180 § 1, part; 1935 c 5 § 1, part; 1933 ex.s. c 29 § 1, part; prior: 1933 c 79 § 1, part; 1927 c 279 § 2, part; 1923 c 53 § 3, part; 1921 c 61 § 5, part; Rem. Supp. 1945 § 5147, part.]

Effective date—**Severability**—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Conduct of elections—Canvass: RCW 29.13.040.

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

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

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

29.04.030 Prevention and correction of election frauds and errors. Any justice of the supreme court, judge of the court of appeals, or judge of the superior court in the proper county shall, by order, require any person charged with error, wrongful act, or neglect to forthwith correct the error, desist from the wrongful act, or perform the duty and to do as the court orders or to

show cause forthwith why the error should not be corrected, the wrongful act desisted from, or the duty or order not performed, whenever it is made to appear to such justice or judge by affidavit of an elector that:

(1) An error or omission has occurred or is about to occur in printing the name of any candidate on official ballots; or

(2) An error other than as provided in subsections (1) and (3) of this section has been committed or is about to be committed in printing the ballots; or

(3) The name of any person has been or is about to be wrongfully placed upon the ballots; or

(4) A wrongful act other than as provided for in subsections (1) and (3) of this section has been performed or is about to be performed by any election officer; or

(5) Any neglect of duty on the part of an election officer other than as provided for in subsections (1) and (3) of this section has occurred or is about to occur; or

(6) An error or omission has occurred or is about to occur in the issuance of a certificate of election.

An affidavit of an elector under subsections (1) and (3) above when relating to a primary election must be filed with the appropriate court no later than the second Friday following the closing of the filing period for nominations for such office and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under subsections (1) and (3) of this section when relating to a general election must be filed with the appropriate court no later than three days following the official certification of the primary election returns and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under subsection (6) of this section shall be filed with the appropriate court no later than ten days following the issuance of a certificate of election. [1977 1st ex.s. c 361 § 3; 1973 1st ex.s. c 165 § 1; 1971 c 81 § 74; 1965 c 9 § 29.04.030. Prior: (i) 1907 c 209 § 25, part; RRS § 5202, part. (ii) 1889 p 407 § 19; RRS § 5276.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Certiorari, mandamus, and prohibition: Chapter 7.16 RCW.

Contests: Chapter 29.65 RCW.

Crimes and penalties: Chapter 29.85 RCW.

29.04.040 Precincts—Number of voters—Dividing, altering, or combining—Creating new precincts (as amended by 1977 1st ex.s. c 128). (1) No paper ballot precinct shall contain more than three hundred voters. The county legislative authority may divide, alter, or combine precincts so that, whenever practicable, over populated precincts shall contain no more than two hundred fifty registered voters in anticipation of future growth.

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

(3) Precincts in which voting machines or electronic voting devices are used may contain as many as nine hundred registered voters: *Provided,* That there shall be at least one voting machine or device for each three hundred registered voters or major fraction thereof when a state primary or general election is held in an even-numbered year.

(4) On petition of twenty-five or more voters resident more than ten miles from any place of election, the county legislative authority shall establish a separate voting precinct therefor.

The county legislative authority of each county in the state hereafter formed shall, at their first session, divide their respective counties into election precincts with two hundred fifty voters or less and establish the boundaries of the same; the county auditor shall thereupon designate the voting place for each such precinct. [1977 1st ex.s. c 128 § 1; 1975-'76 2nd ex.s. c 129 § 3; 1967 ex.s. c 109 § 1; 1965 c 9 § 29.04.040. Prior: (i) 1921 c 178 § 1, part; 1915 c 11 § 1, part; 1907 c 130 § 1, part; 1889 p 402 § 7, part; Code 1881 § 3067, part; 1865 p 30 § 1, part; RRS § 5171, part. (ii) 1907 c 130 § 2, part; 1889 p 408 § 21, part; RRS § 5278, part. (iii) Code 1881 § 2679; 1854 p 65 § 4, part; No RRS.]

Severability—1977 1st ex.s. c 128: "If any provision of this 1977 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." [1977 1st ex.s. c 128 § 6.]

The foregoing annotation applies to RCW 43.41.105 and to the amendments to RCW 29.04.040, 29.04.050, 29.04.130, and 29.04.140 by 1977 1st ex.s. c 128.

29.04.040 Precincts—Number of voters—Dividing, altering, or combining—Creating new precincts (as amended by 1977 1st ex.s. c 361). (1) No paper ballot precinct shall contain more than three hundred voters. The county legislative authority may divide, alter, or combine precincts so that, whenever practicable, over populated precincts shall contain no more than two hundred fifty registered voters in anticipation of future growth.

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

(3) Precincts in which voting machines or electronic voting devices are used may contain as many as nine hundred registered voters: *Provided,* That there shall be at least one voting machine or device for each three hundred registered voters or major fraction thereof when a state primary or general election is held in an even-numbered year.

On petition of twenty-five or more voters resident more than ten miles from any place of election, the county legislative authority shall establish a separate voting precinct therefor.

The county legislative authority of each county in the state hereafter formed shall, at their first session, divide their respective counties into election precincts with two hundred fifty voters or less and establish the boundaries of the same; the county auditor shall thereupon designate the voting place for each such precinct. [1977 1st ex.s. c 361 § 4; 1975-'76 2nd ex.s. c 129 § 3; 1967 ex.s. c 109 § 1; 1965 c 9 § 29.04.040. Prior: (i) 1921 c 178 § 1, part; 1915 c 11 § 1, part; 1907 c 130 § 1, part; 1889 p 402 § 7, part; Code 1881 § 3067, part; 1865 p 30 § 1, part; RRS § 5171, part. (ii) 1907 c 130 § 2, part; 1889 p 408 § 21, part; RRS § 5278, part. (iii) Code 1881 § 2679; 1854 p 65 § 4, part; No RRS.]

Reviser's note: RCW 29.04.040 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Effective date—Severability—1975-'76 2nd ex.s. c 129: See notes following RCW 29.04.130.

"City precinct" defined: RCW 29.01.030.

"Precinct" defined: RCW 29.01.120.

"Rural precinct" defined: RCW 29.01.150.

29.04.050 Precincts—Restrictions on precinct boundaries—Designated by number. (1) Every voting precinct must be established so that it lies wholly within one senatorial or representative district and wholly within one county commissioner district.

(2) Every voting precinct shall be composed, as nearly as practicable, of contiguous and compact areas.

(3) Every voting precinct within each county shall be designated consecutively by number for the purpose of

preparation of maps and the tabulation of population for apportionment purposes. The county auditor may name precincts as he deems necessary for other purposes. [1977 1st ex.s. c 128 § 2; 1965 c 9 § 29.04.050. Prior: 1921 c 178 § 1, part; 1915 c 11 § 1, part; 1907 c 130 § 1, part; 1889 p 402 § 7, part; Code 1881 § 3067, part; 1865 p 30 § 1, part; RRS § 5171, part.]

Severability—1977 1st ex.s. c 128: See note following RCW 29.04.040.

29.04.055 Combining or dividing precincts. At any election, general or special, or at any primary, the election authority may combine, unite, or divide precincts for the purpose of holding such election: *Provided*, That in the event such election shall be held upon the day of any state primary or state general election held in an even-numbered year this section shall not apply. [1977 1st ex.s. c 361 § 5; 1974 ex.s. c 127 § 1; 1965 c 9 § 29.04.055. Prior: 1963 c 200 § 22; 1951 c 70 § 1.]

Effective date—**Severability**—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

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

29.04.130 Maps of precinct boundaries—Census correspondence lists—Duties of county auditor—Distribution—Public record—Copies. (1) On or before July 1, 1980, each county auditor shall prepare and transmit to the secretary of state maps of the county and of each city or town therein clearly delineating the boundaries which have been established for each precinct in the county for the 1980 state primary and state general election. A correspondence listing of the census blocks and enumeration districts or the portions of such blocks and enumeration districts which are contained within each such precinct shall accompany each map or set of maps: *Provided*, That whenever a precinct contains part of one or more census blocks or enumeration districts, the county auditor shall indicate on the correspondence listing his best judgment of the proportion of the total number of registered voters in the precinct who reside within such parts of census blocks or enumeration districts.

(2) Each county auditor shall also send one copy of the map of each city or town to the clerk of that city or town.

(3) Such maps and listings shall be public records and shall be available for inspection by the public in the offices wherein they are kept during normal office hours. Copies shall be made available to the public for a fee necessary to cover the cost of reproduction. [1977 1st ex.s. c 128 § 3; 1975-'76 2nd ex.s. c 129 § 1.]

Severability—1977 1st ex.s. c 128: See note following RCW 29.04.040.

Effective date—1975-'76 2nd ex.s. c 129: "This 1976 amendatory act shall take effect on February 1, 1977." [1975-'76 2nd ex.s. c 129 § 5.]

Severability—1975-'76 2nd ex.s. c 129: "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 129 § 6.]

The two immediately foregoing annotations apply to RCW 29.04.130, 29.04.140, and to the amendment to RCW 29.04.040 by 1975-'76 2nd ex.s. c 129 § 3.

29.04.140 Maps and census correspondence lists—Apportionment—Duties of secretary of state.

(1) With regard to functions relating to census, apportionment, and the establishment of legislative and congressional districts, the secretary of state shall:

(a) Promulgate rules pursuant to chapter 34.04 RCW governing the preparation, maintenance, distribution, and filing of precinct maps and census correspondence lists prepared pursuant to RCW 29.04.130 as now or hereafter amended;

(b) Coordinate and monitor precinct mapping functions of the county auditors and county engineers;

(c) Maintain official state base maps and correspondence lists and maintain an index of all such maps and lists;

(d) Furnish to the United States bureau of the census as needed for the decennial census of population, current, accurate, and easily readable versions of maps of all counties, cities, towns, and other areas of this state, which indicate current precinct boundaries together with copies of the census correspondence lists.

(2) The secretary of state shall serve as the state liaison with the United States bureau of census on matters relating to the preparation of maps and the tabulation of population for apportionment purposes. [1977 1st ex.s. c 128 § 4; 1975-'76 2nd ex.s. c 129 § 2.]

Severability—1977 1st ex.s. c 128: See note following RCW 29.04.040.

Effective date—**Severability**—1975-'76 2nd ex.s. c 129: See notes following RCW 29.04.130.

29.04.160 Computer tape or data file of records of registered voters—Master state-wide tape or file to be furnished to political parties—Duplicate copy to statute law committee—Restrictions and penalties. No later than February 15th and no later than August 15th of each year, the secretary of state shall provide a duplicate copy of the master state-wide computer tape or data file of registered voters to the state central committee of each major political party, at actual duplication cost, and shall provide a duplicate copy of the master state-wide computer tape or data file of registered voters to the statute law committee without cost. The master state-wide computer tape or data file of registered voters or portions of the tape or file shall be available to any other political party, at actual duplication cost, upon written request to the secretary of state. Restrictions as to the commercial use of the information on the state-wide computer tape or data file of registered voters, and penalties for its misuse, shall be the same as provided in RCW 29.04.110 and 29.04.120 as now existing or hereafter amended. [1977 1st ex.s. c 226 § 1; 1975-'76 2nd ex.s. c 46 § 3.]

Chapter 29.10
REGISTRATION TRANSFERS AND
CANCELLATIONS

Sections

- 29.10.040 Reregistration on transfer to another county.
29.10.080 Cancellation for failure to vote.
29.10.120 Sworn statement of cancellations—Filing.

29.10.040 Reregistration on transfer to another county. A registered voter who changes his or her residence from one county to another county, shall be required to register anew. Before registering anew, the voter shall sign an authorization to cancel his or her present registration in substantially the following form: "I hereby authorize the cancellation of my registration in ----- precinct of ----- county." Such authorization shall be forwarded promptly to the county auditor of the county in which the voter was previously registered. Upon the receipt of such authorization, the county auditor of the county where the previous registration was made, shall cause the signature on the authorization to be compared with the signature on the registration record of such voter, and if it appears that the signatures were made by the same person, the former registration record shall be canceled forthwith. [1977 1st ex.s. c 361 § 26; 1971 ex.s. c 202 § 26; 1965 c 9 § 29.10.040. Prior: 1933 c 1 § 15; RRS § 5114-15.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.
City precinct defined: RCW 29.01.030.
Precinct defined: RCW 29.01.120.
Residence defined: RCW 29.01.140.
Rural precinct defined: RCW 29.01.150.

29.10.080 Cancellation for failure to vote. (1) After each state general election and prior to January 1st of the next calendar year, the county auditor shall cancel the voter registration record of any registered voter who fails to meet the requirements of subsection (2) of this section for retaining registered status. He shall notify the voter whose registration has been canceled, by mail, at his last registration address, of the fact that his registration has been canceled, and that he will not be entitled to vote at any election until he has registered anew. No voter's registration shall be canceled if his original registration was made less than twenty-four months prior to the cancellation date. The secretary of state shall be notified immediately of all such cancellations.

(2) A registered voter shall retain such status by either having voted at (a) any election, general or special, or at any primary within the past twenty-four months, or (b) the most recent presidential election. [1977 1st ex.s. c 361 § 27; 1971 ex.s. c 202 § 28; 1967 ex.s. c 109 § 3; 1965 c 9 § 29.10.080. Prior: 1945 c 30 § 1; 1933 c 1 § 19; Rem. Supp. 1945 § 5114-19.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.
Cancellation due to address differing from that on permanent records—Necessary procedural steps before cancellation: RCW 29.10.160.

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

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

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

Further, the number of said cancellations totaled ----- A notice has been mailed to each elector concerned and the office of the secretary has been notified of said cancellations.

----- (Signature) (Title)

Subscribed and sworn to.

[1977 1st ex.s. c 361 § 28; 1971 ex.s. c 202 § 33; 1965 c 9 § 29.10.120. Prior: 1951 c 208 § 1.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Chapter 29.13
TIMES FOR HOLDING ELECTIONS AND
PRIMARIES

Sections

- 29.13.047 State to assume share of election costs when state officers or measures voted upon—Procedure.
29.13.070 Primaries, when held.

29.13.047 State to assume share of election costs when state officers or measures voted upon—Procedure. Whenever state officers or measures are voted upon at a state primary or general election held in an odd-numbered year as provided for in RCW 29.13.010, the state of Washington shall assume its prorated share of such election costs. The county auditor shall apportion the state's share of such expenses when prorating election costs as provided under RCW 29.04.020 and 29.13.045 and shall file such expense claims with the secretary of state. The secretary of state shall include in his biennial budget request a provision for sufficient funds to carry out the provisions of this section. Payments hereunder shall be from appropriations specifically provided for such purpose by law. [1977 1st ex.s. c 144 § 4; 1975-'76 2nd ex.s. c 4 § 1; 1973 c 4 § 2.]

29.13.070 Primaries, when held. Nominating primaries for general elections to be held in November shall be held at the regular polling places in each precinct on the third Tuesday of the preceding September or on the seventh Tuesday immediately preceding such

general election, whichever occurs first. [1977 1st ex.s. c 361 § 29; 1965 ex.s. c 103 § 6; 1965 c 9 § 29.13.070. Prior: 1963 c 200 § 25; 1907 c 209 § 3; RRS § 5179.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Chapter 29.18 PARTISAN PRIMARIES

Sections

29.18.020	What candidates shall appear on ballot.
29.18.040	Declaration of candidacy—Where filed—Copy of declaration, withdrawal letter to be forwarded to public disclosure commission.
29.18.110	Number of votes necessary for appearance on general election ballot.
29.18.150	Vacancies on major party ticket caused by no filing—How filled.
29.18.160	Vacancies caused by death or disqualification—How filled—Correcting ballots and labels—Counting votes already cast for person named to vacancy, when.

29.18.020 What candidates shall appear on ballot.

The names of the candidates of the major political parties and those independent candidates and candidates of minor political parties who have been nominated pursuant to the provisions of chapter 29.24 RCW shall appear upon the partisan primary ballot: *Provided*, That candidates for the positions of president and vice president shall not appear on the partisan primary ballot. The name of no other candidate shall appear thereon. [1977 1st ex.s. c 329 § 10; 1965 c 9 § 29.18.020. Prior: 1907 c 209 § 6, part; RRS § 5183, part.]

Major political party defined: RCW 29.01.090.

29.18.040 Declaration of candidacy—Where filed—Copy of declaration, withdrawal letter to be forwarded to public disclosure commission. Declarations of candidacy shall be filed as follows:

(1) For state offices, United States senate, United States house of representatives, and the state legislature and superior court when electors from a district comprising more than one county vote upon the candidates, in the office of the secretary of state;

(2) For all other offices, when electors from only one county vote upon the candidates, in the office of the county auditor.

Each official with whom declarations of candidacy are filed under this section, within one business day following the closing of the applicable filing period, shall forward to the public disclosure commission a copy of each declaration of candidacy filed in his office during such filing period or a list containing the name of each candidate who files such a declaration in his office during such filing period together with a precise identification of the position sought by each such candidate and the date on which each such declaration was filed. Such official, within three days following his receipt of any letter withdrawing a person's name as a candidate, shall also forward a copy of such withdrawal letter to the public disclosure commission. [1977 1st ex.s. c 361 § 30;

1975-'76 2nd ex.s. c 112 § 1; 1965 c 9 § 29.18.040. Prior: 1907 c 209 § 7; RRS § 5184.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Construction—1975-'76 2nd ex.s. c 112: RCW 42.17.945.

Severability—1975-'76 2nd ex.s. c 112: RCW 42.17.912.

Precinct committeeman, filing of declaration of candidacy with county auditor: RCW 29.42.040.

Public disclosure—Campaign finances, lobbying, records: Chapter 42.17 RCW.

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

29.18.110 Number of votes necessary for appearance on general election ballot. No name of a candidate for a partisan office shall appear on the general election ballot unless he receives a number of votes equal to at least one percent of the total number cast for all candidates for the position sought: *Provided*, That only the name of the candidate who receives a plurality of the votes cast for the candidates of his party for any office shall appear on the general election ballot.

If there are two or more positions of the same kind to be filled and more candidates of a party receive a plurality of the votes cast for those positions than there are positions to be filled, the number of candidates equal to the number of positions to be filled who receive the highest number of votes shall be the nominees of their party for those positions. [1977 1st ex.s. c 329 § 11; 1974 ex.s. c 127 § 5; 1965 c 9 § 29.18.110. Prior: 1963 c 189 § 1; 1961 c 130 § 16; prior: (i) 1919 c 163 § 18, part; 1907 c 209 § 23, part; RRS § 5199, part. (ii) 1933 c 21 § 1, part; 1919 c 163 § 24, part; RRS § 5200, part.]

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

29.18.150 Vacancies on major party ticket caused by no filing—How filled. Should a place on the ticket of a major political party be vacant because no person has filed for nomination as the candidate of that major political party, after the last day allowed for candidates to withdraw as provided by RCW 29.18.030, and if the vacancy is for a state or county office to be voted on solely by the electors of a single county, the county central committee of the major political party may select and certify a candidate to fill the vacancy; if the vacancy is for any other office the state central committee of the major political party may select and certify a candidate to fill the vacancy; the certificate must set forth the cause of the vacancy, the name of the person nominated, the office for which he is nominated and other pertinent information required in an ordinary certificate of nomination and be filed in the proper office no later than the first Friday after the last day allowed for candidates to withdraw, together with the candidate's fee applicable to that office and a declaration of candidacy. [1977 1st ex.s. c 329 § 12; 1965 c 9 § 29.18.150. Prior: 1961 c 130 § 17; prior: (i) 1933 c 21 § 1, part; 1919 c 163 § 24, part; RRS § 5200, part. (ii) 1889 p 404 § 12; RRS § 5176.]

29.18.160 Vacancies caused by death or disqualification—How filled—Correcting ballots and

labels—Counting votes already cast for person named to vacancy, when. A vacancy caused by the death or disqualification of any candidate or nominee of a major or minor political party may be filled at any time up to and including the day prior to the election for that position. For state partisan offices in any political subdivision voted on solely by electors of a single county, an individual shall be appointed to fill such vacancy by the county central committee in the case of a major political party or by the state central committee or comparable governing body in the case of a minor political party. For other partisan offices, including federal or state-wide offices, an individual shall be appointed to fill such vacancy by the state central committee or comparable governing body of the appropriate political party.

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

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

When the secretary of state is the person with whom the appointment by the major or minor political party is filed, he shall, in certifying candidates or nominations to the various county officers insert the name of the person appointed to fill a vacancy.

In the event that the secretary of state has already sent forth his certificate when the appointment to fill a vacancy is filed with him, he shall forthwith certify to the county auditors of the proper counties the name and place of residence of the person appointed to fill a vacancy, the office for which he is a candidate or nominee, the party he represents and all other pertinent facts pertaining to the vacancy. [1977 1st ex.s. c 329 § 13.]

Chapter 29.21

NONPARTISAN PRIMARIES AND ELECTIONS

Sections

29.21.010	Primary elections in cities, towns, and certain districts.
29.21.060	Declarations of candidacy in cities, towns, and certain districts.
29.21.100	Repealed. (Effective January 1, 1978.)
29.21.330	County freeholders—Designation of positions—Rotation of names on ballots.

29.21.010 Primary elections in cities, towns, and certain districts. All cities and towns shall hold primary elections irrespective of type or form of government which shall be nonpartisan and held as provided in RCW 29.13.070, as now or hereafter amended. All districts, except those districts which require ownership of

property within said districts as a prerequisite to voting, shall hold primary elections which shall be nonpartisan and held as provided in RCW 29.13.070 as now or hereafter amended.

All names of candidates to be voted upon at city, town, and such district primary elections shall be printed upon the official primary ballot alphabetically in groups under the designation of the respective titles of the offices for which they are candidates. The name of the person who receives the greatest number of votes and of the person who receives the next greatest number of votes for each position, shall appear in that order on the city, town, or district general election ballot concerned under the designation for each respective office. In the event there are two or more offices to be filled for the same position, then names of candidates receiving the highest number of votes equal in number to twice the offices to be filled shall appear on the city, town, or district general election ballot so that the voter shall have a choice of two candidates for each position: *Provided*, That no name of any candidate shall appear on the city, town, or district general election ballot unless said candidate shall receive at least five percent of the total votes cast for that office. The sequence of names of candidates printed on the city, town, or district general election ballot shall be in relation to the number of votes each candidate received at the primary. Names of candidates printed upon the city, town, or district primary and general election ballot need not be rotated.

The purpose of this section is to establish the holding of a primary election, subject to the exemptions as contained in RCW 29.21.015 as now or hereafter amended, as a uniform procedural requirement to the holding of city, town, and district elections and such provisions shall supersede any and all other statutes, whether general or special in nature, having different election requirements. [1977 c 53 § 3; 1975-'76 2nd ex.s. c 120 § 1; 1965 c 123 § 7; 1965 c 9 § 29.21.010. Prior: 1951 c 257 § 7; 1949 c 161 § 3; Rem. Supp. 1949 § 5179-1.]

Severability—1975-'76 2nd ex.s. c 120: "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 120 § 16.]

29.21.060 Declarations of candidacy in cities, towns, and certain districts. All candidates for offices to be voted on at any election in first, second, and third class cities and fourth class municipalities (towns) shall file declarations of candidacy with the county auditor not earlier than the last Monday of July nor later than the next succeeding Friday in the year such regular city elections are held.

All candidates for district offices subject to the provisions of RCW 29.21.010, as now or hereafter amended, shall file their declarations of candidacy with the county auditor of the county not earlier than the last Monday of July nor later than the next succeeding Friday in the year such regular district elections are held: *Provided*, That this chapter shall not change the method of nomination for first district officers at the formation of any district.

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

All candidates required to file declarations of candidacy shall pay the same fees and be governed by the same rules as contained in RCW 29.18.030 through 29.18.100: *Provided*, That no filing fee shall be charged in the event that the office sought is without a fixed annual salary.

This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for filing declarations of candidacy for such city, town, and district elections, the purpose of this section being to establish a uniform five day period throughout the state of Washington for filing declarations of candidacy. [1977 1st ex.s. c 361 § 31; 1975-'76 2nd ex.s. c 120 § 3; 1969 ex.s. c 283 § 56; 1965 ex.s. c 103 § 2; 1965 c 9 § 29.21.060. Prior: 1963 c 200 § 10; 1959 c 247 § 2; 1959 c 175 § 7; 1951 c 101 § 5; 1949 c 161 § 6; 1947 c 234 § 3; 1945 c 194 § 5; Rem. Supp. 1949 § 5166-4.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Severability—1975-'76 2nd ex.s. c 120: See note following RCW 29.21.010.

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

29.21.100 Repealed. (Effective January 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

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

In the printing of ballots, the positions of the names of candidates for each numbered position shall be changed as many times as there are candidates for the numbered position, following insofar as applicable the procedure provided for in RCW 29.30.040 as now or hereafter amended for the rotation of names on primary ballots, the intention being that ballots at the polls will reflect as closely as practicable the rotation procedure as provided for herein. [1977 1st ex.s. c 361 § 32; 1967 ex.s. c 130 § 1.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Chapter 29.24

NOMINATIONS OTHER THAN BY PRIMARY

Sections	
29.24.010	Definitions—"Convention" and "election jurisdiction".
29.24.020	Nomination by convention or write-in—Date for convention—Multiple conventions by single party.
29.24.030	Requirements for validity of convention.
29.24.040	Certificate of nomination—Requisites.
29.24.050	Certificate of nomination—What signatures invalid.
29.24.060	Certificate of nomination—Checking signatures—Invalid signatures, procedure—Destruction of invalid portion of nominating certificate, when.
29.24.070	Declarations of candidacy required, exceptions—Payment of fees.
29.24.075	Time for filing declarations of candidacy.
29.24.080	Repealed.

29.24.010 Definitions—"Convention" and "election jurisdiction". A "convention" for the purposes of this chapter, is an organized assemblage of registered voters representing an independent candidate or candidates or a new or minor political party, organization, or principle. As used in this chapter, the term "election jurisdiction" shall mean the state or any political subdivision or jurisdiction of the state from which partisan officials are elected. This term shall include county commissioner districts or council districts for members of a county legislative authority, counties for county officials who are nominated and elected on a county-wide basis, legislative districts for members of the legislature, congressional districts for members of congress, and the state for president and vice president, members of the United States senate, and state officials who are elected on a state-wide basis. [1977 1st ex.s. c 329 § 1; 1965 c 9 § 29.24.010. Prior: 1955 c 102 § 2; prior: 1937 c 94 § 2, part; RRS § 5168, part.]

Congressional districts: Chapter 44.07A RCW.

Minor political party defined: RCW 29.01.100.

Registration of voters: Chapter 29.07 RCW.

29.24.020 Nomination by convention or write-in—Date for convention—Multiple conventions by single party. Any nomination of a candidate for partisan public office by other than a major political party shall only be made either: (1) In a convention held on the last Saturday immediately preceding the first day for filing declarations of candidacy specified in RCW 29.18.030 or fixed in accordance with RCW 29.68.080 or 29.68.090; or (2) as provided by RCW 29.51.170. A minor political party may hold more than one convention but in no case shall any such party nominate more than one candidate for any one partisan public office or position. [1977 1st ex.s. c 329 § 2; 1965 c 9 § 29.24.020. Prior: 1955 c 102 § 3; prior: (i) 1937 c 94 § 1; RRS § 5167. (ii) 1937 c 94 § 4; RRS § 5170. (iii) 1937 c 94 § 10; RRS § 5170-6. (iv) 1907 c 209 § 26, part; RRS § 5203, part.]

Reviser's note: Former laws embodying primary elections for the nomination of minor party candidates for public office may be found in 1889 p 400 § 2, 1889 pp 419-427 §§ 1-26 and 1895 c 145 §§ 1-19. Primaries, when held: RCW 29.13.070.

29.24.030 Requirements for validity of convention.

To be valid, a convention must:

(1) Be attended by at least a number of individuals who are registered to vote in the election jurisdiction for which nominations are to be made, which number is equal to one for each ten thousand voters or portion thereof who voted in the last preceding presidential election held in that election jurisdiction or twenty-five such registered voters, whichever number is greater;

(2) Have been called by a notice published in a newspaper of general circulation published in the county in which the convention is to be held at least ten days before the date of the convention stating the date, hour, and place of meeting. The notice shall also include the mailing address of the person or organization sponsoring the convention, if any. [1977 1st ex.s. c 329 § 3; 1965 c 9 § 29.24.030. Prior: 1955 c 102 § 4; prior: (i) 1937 c 94 § 2, part; RRS § 5168, part. (ii) 1937 c 94 § 3; RRS § 5169.]

29.24.040 Certificate of nomination—Requisites.

A certificate evidencing nominations made at a convention must:

(1) Be in writing;

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

(3) Designate in not more than five words the purpose for which the convention was held or the new or minor political party, organization, or principle which the convention represents;

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

(5) Be signed by at least a number of individuals who are registered to vote in the election jurisdiction for which the nominations are made and who attended the convention, which number is equal to the number of registered voters who must have attended the convention for it to be valid under RCW 29.24.030 as now or hereafter amended;

(6) Show the voting addresses of all signers;

(7) Contain proof of publication of the notice of calling the convention; and

(8) Be submitted to the secretary of state not later than the last day for filing declarations of candidacy under RCW 29.18.030, or fixed in accordance with RCW 29.68.080 or 29.68.090. [1977 1st ex.s. c 329 § 4; 1965 c 9 § 29.24.040. Prior: 1955 c 102 § 5; prior: 1937 c 94 § 5, part; RRS § 5170-1, part.]

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

29.24.050 Certificate of nomination—What signatures invalid.

The signature on a convention nominating certificate of a person who signed a nominating certificate in any other convention held on the day of the convention is invalid. [1977 1st ex.s. c 329 § 5; 1965 c 9 § 29.24.050. Prior: 1955 c 102 § 6; prior: 1937 c 94 § 5, part; RRS § 5170-1, part.]

29.24.060 Certificate of nomination—Checking signatures—Invalid signatures, procedure—

Destruction of invalid portion of nominating certificate, when. Upon the receipt of the certificate of nomination of a convention, the secretary of state shall check the certificate and canvass the signatures thereon to ascertain if the requirements of RCW 29.24.040, as now or hereafter amended, have been met. If the secretary of state finds that the certificate does not comply with law he shall refuse to file the same and any declarations of candidacy of candidates nominated by such convention. Within two weeks after the last day of the filing period, as specified by RCW 29.18.030, or fixed in accordance with RCW 29.68.080 or 29.68.090, the secretary of state shall notify the presiding officer and secretary of each convention of any signatures judged invalid, together with the reason for any such judgment. Within one week after such notification, upon request of the presiding officer or secretary of any such convention, the county auditor shall recheck the voter registration records and shall notify the secretary of state of any signatures validated upon rechecking.

On the seventh day after filing a nominating certificate or notifying the presiding officer or secretary of a convention of any signatures judged invalid on a nominating certificate, the secretary of state shall destroy the portion of the certificate which contains the signatures, names, and addresses of convention participants unless the certificate is in dispute, in which case that portion shall be retained until the dispute is resolved. Upon resolution of any such dispute, the secretary of state shall destroy that portion of the nominating certificate. In no case shall the fact that a voter participated in a particular convention be disclosed to any person other than the election official who checks the validity of signatures on nominating certificates. [1977 1st ex.s. c 329 § 6; 1965 c 9 § 29.24.060. Prior: 1937 c 94 § 6; RRS § 5170-2.]

29.24.070 Declarations of candidacy required, exceptions—Payment of fees.

If a nominating certificate is valid, each candidate, except for the positions of president or vice president, whose nomination is evidenced thereby may file with the secretary of state a declaration of candidacy in the form prescribed for candidates subject to primary election, and each candidate must at the time of filing such declaration pay to the secretary of state the fee prescribed by law for candidates subject to primary election. The name of a candidate nominated at a convention shall not be printed upon the primary ballot unless he pays the fee required by law to be paid by candidates for the same office to be nominated at a primary. [1977 1st ex.s. c 329 § 7; 1965 c 9 § 29.24.070. Prior: 1955 c 102 § 7; prior: (i) 1937 c 94 § 7, part; RRS § 5170-3, part. (ii) 1907 c 209 § 26, part; RRS § 5203, part.]

29.24.075 Time for filing declarations of candidacy.

A declaration of candidacy of an individual candidate whose name appears on a nominating certificate filed by the secretary of state in accordance with RCW 29.24.060, as now or hereafter amended, shall be submitted to the secretary of state within one week of the filing of the

nominating certificate by the secretary of state. [1977 1st ex.s. c 329 § 8.]

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

Chapter 29.27

CERTIFICATES AND NOTICES

Sections

29.27.060 Certification of measures generally—Ballot titles.

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

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

Such concise statement shall constitute the ballot title. The secretary of state shall certify to the county auditors the ballot title for a proposed constitution, constitutional amendment or other state-wide question at the same time and in the same manner as the ballot titles to initiatives and referendums. [1977 c 4 § 3; 1973 1st ex.s. c 118 § 1; 1965 c 9 § 29.27.060. Prior: 1953 c 242 § 1; 1913 c 135 § 1; 1889 p 405 § 14; RRS § 5271.]

Severability—1977 c 4: See note following RCW 84.52.052.

Ballot titles to initiatives and referendums: RCW 29.79.040–29.79.070.

Review of proposed initiatives by code reviser: RCW 29.79.01 5.

Chapter 29.30

BALLOTS

Sections

29.30.010 Paper ballots—Primaries—Uniformity, arrangement, contents required.
 29.30.020 Paper ballots—Primaries—Arrangement of offices—Write-in candidate space.
 29.30.030 Paper ballots—Primaries—Form.
 29.30.040 Paper ballots—Primaries—Rotating names of candidates.
 29.30.050 Repealed. (Effective January 1, 1978.)
 29.30.060 Paper ballots—Samples.
 29.30.061 Paper ballots—General election—Requirements.
 29.30.071 Paper ballots—Order of lists of candidates.
 29.30.075 Paper ballots—Primary ballots for absentee voters, date prepared.

29.30.080 General election ballots—Form. (Amended by 1977 1st ex.s. c 329; repealed by 1977 1st ex.s. c 361, effective January 1, 1978.)
 29.30.081 Paper ballots—General election—Arrangement of instructions, measures, offices.
 29.30.090 Repealed. (Effective January 1, 1978.)
 29.30.091 Paper ballots—General election—Form of ballot.
 29.30.100 General election ballots—What names to appear. (Amended by 1977 1st ex.s. c 329; repealed by 1977 1st ex.s. c 361, effective January 1, 1978.)
 29.30.101 General election ballot—Names qualified to appear.
 29.30.110 Repealed. (Effective January 1, 1978.)
 29.30.310 Voting devices—All elections—Ballot pages—Uniformity, arrangement, contents required—Ballot cards.
 29.30.320 Voting devices—Primary ballot—Arrangement of offices—Write-in candidate space.
 29.30.330 Voting devices—Primary ballot page, form.
 29.30.340 Voting devices—Primaries—Rotating names of candidates.
 29.30.350 Voting devices—Sample ballots.
 29.30.360 Voting devices—Absentee ballots—Preparation—Time and number.
 29.30.370 Voting devices—Ballot pages—General elections—Requirements.
 29.30.380 Voting devices—General election—Order of candidates for each office—Write-in candidate space.
 29.30.390 Voting devices—General election—Form of ballot pages.
 29.30.410 Voting machines—Primary ballot labels—Uniformity, arrangement, contents required.
 29.30.420 Voting machines—Primary ballot—Arrangement of offices—Write-in candidate space.
 29.30.430 Voting machines—Primary ballot, form.
 29.30.440 Voting machines—Primaries—Rotating names of candidates.
 29.30.450 Voting machines—Sample diagrams.
 29.30.460 Voting machines—Ballot labels—General election—Requirements.
 29.30.470 Order of lists of candidates.
 29.30.480 Voting machines—General election—Arrangement of instructions, measures, offices.
 29.30.490 Voting machines—General election—Form of ballot labels.

29.30.010 Paper ballots—Primaries—Uniformity, arrangement, contents required. Every primary paper ballot shall be uniform in color and size, shall be white and printed in black ink. Each ballot shall be identified at the top with the words, "Primary Election Ballot," and below that, the county in which the ballot is to be used, the date of the primary, and the instruction: "To vote for a person mark a cross in the first square at the right of the name of the person for whom you desire to vote. To vote for a person not on the ballot, write in the name of the candidate, and the party affiliation if for a partisan office, in the space provided." Beginning at the top of the left hand column, at the left of the line shall appear the name of the position for which the names following are candidates, and to the extreme right of the same line the words, "Vote for," then the words "One," "Two," or a spelled number designating how many persons under that head are to be voted for. Below this shall come the names of all candidates for that position, each followed by the name of the political party, if any, with which the candidate desires to affiliate or the word "nonpartisan", with a square to the right. Each position with the names running for that office, shall be separated from the following one by a bold line. All primary paper ballots shall be sequentially

numbered, but done in such a way to permit removal of such numbers by precinct election workers without revealing the identity of any individual voter. There shall be no printing upon the back of the ballots nor any mark thereon to distinguish them. [1977 1st ex.s. c 361 § 51; 1965 c 9 § 29.30.010. Prior: (i) 1935 c 26 § 2, part; 1933 c 95 § 2, part; 1917 c 71 § 1, part; 1909 c 82 § 3, part; 1907 c 209 § 10, part; RRS § 5187, part. (ii) 1909 c 82 § 5, part; 1907 c 209 § 13, part; RRS § 5190, part.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.020 Paper ballots—Primaries—Arrangement of offices—Write-in candidate space. In precincts using paper ballots and on absentee paper ballots, the positions or offices on a state primary ballot shall be arranged in substantially the following order: United States senator; United States representative; governor; lieutenant governor; secretary of state; state treasurer; state auditor; attorney general; commissioner of public lands; insurance commissioner; state senator; state representative; county officers; superintendent of public instruction; justices of the supreme court; judges of the court of appeals; judges of the superior court; and judges of the district court. For all other jurisdictions appearing on the primary ballot, the offices in each jurisdiction shall be grouped together and be in the order of the position numbers assigned to those offices, if any. Unless otherwise specified by law, the names shall be listed in order of filing. There shall be a blank space left following the list of names of candidates for each office or position for writing in the name of a candidate, if desired. [1977 1st ex.s. c 361 § 52; 1971 c 81 § 76; 1965 c 9 § 29.30.020. Prior: 1935 c 26 § 2, part; 1933 c 95 § 2, part; 1917 c 71 § 1, part; 1909 c 82 § 3, part; 1907 c 209 § 10, part; RRS § 5187, part.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.030 Paper ballots—Primaries—Form. The form of primary paper ballots shall be substantially as follows:

PRIMARY ELECTION BALLOT
----- County
(Date of primary)

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

UNITED STATES SENATOR Vote for One

(name of candidate) (party)

(name of candidate) (party)

(name of candidate) (party)

(space for write-in candidate) (name of party)

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

[1977 1st ex.s. c 361 § 53; 1965 c 9 § 29.30.030. Prior: 1935 c 26 § 2, part; 1933 c 95 § 2, part; 1917 c 71 § 1, part; 1909 c 82 § 3, part; 1907 c 209 § 10, part; RRS § 5187, part.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.040 Paper ballots—Primaries—Rotating names of candidates. In primary elections in precincts where votes are cast on paper ballots, unless otherwise required by law, the names of candidates for each office or position shall be first arranged in the order in which their declarations of candidacy were filed. Additional sets of official ballots shall be printed in which the positions of the names of all candidates for each such office or position shall be changed as many times as there are candidates in the office or position in which there are the greatest number of names. As nearly as possible an equal number of ballots shall be printed after each change. In making the changes of position between each set of ballots, the candidates for each such office in the first position under the office heading shall be moved to the last position under that office heading, and each other name shall be moved up to the position immediately above its previous position under that office heading. After the required sets of ballots are printed, they shall be kept in separate piles, one pile for each change of position, and shall then be gathered by taking one from each pile, the intention being that every other ballot at the polls shall have the names of the candidates under such offices in a different position. [1977 1st ex.s. c 361 § 54; 1965 c 9 § 29.30.040. Prior: 1909 c 82 § 5, part; 1907 c 209 § 13, part; RRS § 5190, part.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.050 Repealed. (Effective January 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

29.30.060 Paper ballots—Samples. In counties or portions of counties using paper ballots, on or before the fifteenth day before a primary or an election, the county auditor shall prepare a sample paper ballot which he shall display in a conspicuous place in his office for public inspection. Sample paper ballots shall be substantially in the same form as the official paper ballots but upon colored paper, and the names of the candidates for each office shall be arranged thereon in the order in which their declarations of candidacy were filed, except that the position of precinct committeeman shall be shown on the general election sample ballot only by a listing of the position itself, and the names of candidates therefor need not be shown. [1977 1st ex.s. c 361 § 55; 1965 c 9 § 29.30.060. Prior: (i) 1935 c 26 § 2, part; 1933 c 95 § 2, part; 1917 c 71 § 1, part; 1909 c 82 § 3, part; 1907 c 209 § 10, part; RRS § 5187, part. (ii) 1909 c 82 § 5, part; 1907 c 209 § 13, part; RRS § 5190, part.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.061 Paper ballots—General election—Requirements. All general election paper ballots within a given precinct shall be of a good quality white paper and the names shall be printed thereon in black ink.

No ballot shall bear any impression, device, color, or thing designated to distinguish such ballot from other legal ballots, or whereby the ballot may be known or designated. [1977 1st ex.s. c 361 § 57.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.071 Paper ballots—Order of lists of candidates. The list of candidates of the party whose candidate for president of the United States received the highest number of votes from the electors of this state in the preceding presidential election shall be placed in the first column of the left hand side of the paper ballot, the list of candidates of the party whose candidate for president of the United States received the next highest number of votes from the electors of this state in the preceding presidential election shall be placed in the second column, and the candidates of other parties in the order in which certificates of nomination have been filed. [1977 1st ex.s. c 361 § 59.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.075 Paper ballots—Primary ballots for absentee voters, date prepared. In counties using absentee paper ballots, at least twenty days before any primary, each county auditor shall have prepared sufficient paper ballots for use by absentee voters. [1977 1st ex.s. c 361 § 56; 1965 ex.s. c 103 § 5; 1965 c 9 § 29.30.075. Prior: 1949 c 161 § 10, part; 1947 c 234 § 2, part; 1935 c 26 § 1, part; 1921 c 178 § 4, part; 1907 c 209 § 8, part; Rem. Supp. 1949 § 5185, part.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

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

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

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

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

(3) All nominations of any party shall be placed under the title of such party, and the name of each nominee shall be placed under the designation of the office for which he has been nominated.

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

(5) The list of candidates of the party whose candidate for president of the United States received the highest number of votes from the electors of this state in the preceding presidential election shall be placed in the first column of the left hand side of the ballot, the list of candidates of the party whose candidate for president received the next highest number of votes from the electors of this state in the preceding presidential election shall be placed in the second column, and the

candidates of other political parties and independent candidates shall follow in the order in which certificates of nomination have been filed in the office of the secretary of state.

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

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

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

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

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

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

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

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

REPUBLICAN PARTY	DEMOCRATIC PARTY	OTHER PARTY
PRESIDENT AND VICE PRESIDENT (Name of candidate) . . . <input type="checkbox"/>	PRESIDENT AND VICE PRESIDENT (Name of candidate) . . . <input type="checkbox"/>	
UNITED STATES SENATOR (Name of candidate) . . . <input type="checkbox"/>	UNITED STATES SENATOR (Name of candidate) . . . <input type="checkbox"/>	
REPRESENTATIVE IN CONGRESS 3rd Congressional District (Name of candidate) . . . <input type="checkbox"/>	REPRESENTATIVE IN CONGRESS 3rd Congressional District (Name of candidate) . . . <input type="checkbox"/>	
GOVERNOR (Name of candidate) . . . <input type="checkbox"/>	GOVERNOR (Name of candidate) . . . <input type="checkbox"/>	
LIEUTENANT GOVERNOR (Name of candidate) . . . <input type="checkbox"/>	LIEUTENANT GOVERNOR (Name of candidate) . . . <input type="checkbox"/>	
SECRETARY OF STATE (Name of candidate) . . . <input type="checkbox"/>	SECRETARY OF STATE (Name of candidate) . . . <input type="checkbox"/>	

REPUBLICAN PARTY	DEMOCRATIC PARTY	OTHER PARTY
STATE TREASURER (Name of candidate)... <input type="checkbox"/>	STATE TREASURER (Name of candidate)... <input type="checkbox"/>	
STATE AUDITOR (Name of candidate)... <input type="checkbox"/>	STATE AUDITOR (Name of candidate)... <input type="checkbox"/>	
ATTORNEY GENERAL (Name of candidate)... <input type="checkbox"/>	ATTORNEY GENERAL (Name of candidate)... <input type="checkbox"/>	
COMMISSIONER OF PUBLIC LANDS (Name of candidate)... <input type="checkbox"/>	COMMISSIONER OF PUBLIC LANDS (Name of candidate)... <input type="checkbox"/>	
INSURANCE COMMISSIONER (Name of candidate)... <input type="checkbox"/>	INSURANCE COMMISSIONER (Name of candidate)... <input type="checkbox"/>	
STATE SENATOR (1st District) (Name of candidate)... <input type="checkbox"/>	STATE SENATOR (1st District) (Name of candidate)... <input type="checkbox"/>	
STATE REPRESENTATIVE (31st District) Position No. 1 (Name of candidate)... <input type="checkbox"/>	STATE REPRESENTATIVE (31st District) Position No. 1 (Name of candidate)... <input type="checkbox"/>	
STATE REPRESENTATIVE (31st District) Position No. 2 (Name of candidate)... <input type="checkbox"/>	STATE REPRESENTATIVE (31st District) Position No. 2 (Name of candidate)... <input type="checkbox"/>	
STATE REPRESENTATIVE (31st District) Position No. 3 (Name of candidate)... <input type="checkbox"/>	STATE REPRESENTATIVE (31st District) Position No. 3 (Name of candidate)... <input type="checkbox"/>	

(Names of other candidates should follow on the ballot in the same form.)

[1977 1st ex.s. c 329 § 14; 1971 c 18 § 1; 1965 c 52 § 2; 1965 c 9 § 29.30.080. Prior: (i) 1947 c 77 § 1; 1935 c 20 § 3; 1901 c 89 § 1; 1895 c 116 § 4; 1891 c 106 § 1; 1889 p 406 § 17; Rem. Supp. 1947 § 5274. (ii) 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part.]

Reviser's note: RCW 29.30.080 was also repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978, without cognizance of its amendment by 1977 1st ex.s. c 329 § 14.

29.30.080 General election ballots—Form. [1971 c 18 § 1; 1965 c 52 § 2; 1965 c 9 § 29.30.080. Prior: (i) 1947 c 77 § 1; 1935 c 20 § 3; 1901 c 89 § 1; 1895 c 116 § 4; 1891 c 106 § 1; 1889 p 406 § 17; Rem. Supp. 1947 § 5274. (ii) 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

Reviser's note: This section was also amended by 1977 1st ex.s. c 329 § 14 without cognizance of the repeal thereof.

29.30.081 Paper ballots—General election—Arrangement of instructions, measures, offices. (1) On the top of each general election paper ballot and extending across the party groups, there shall be printed instructions directing the voters how to mark the ballot, including write-in votes, before the same shall be deposited with the judges of election. Next after the instructions and before the offices shall be placed the questions

of adopting constitutional amendments or any other state measure authorized by law to be submitted to the voters of such election.

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

(3) There shall be a at the right of the name of each of its nominees so that a voter may clearly indicate the candidate or the candidates for whom he wishes to cast his ballot.

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

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

(6) All paper ballots for general elections shall be sequentially numbered, but done in such a way to permit removal of such numbers by precinct election workers without leaving any identifying marks on the ballot. There shall be no printing on the back of the paper ballots nor any mark thereon to distinguish them. [1977 1st ex.s. c 361 § 60.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.090 Repealed. (Effective January 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

29.30.091 Paper ballots—General election—Form of ballot. The arrangement of paper ballots used in general elections shall in general conform as nearly as possible to the following form:

GENERAL ELECTION BALLOT
----- County
(Date of election)

Instructions: If you desire to vote for any candidate, place X in at the right of the name of such candidate. If you desire to vote for or against any measure, place an X in the appropriate following such measure. To vote for a person not on the ballot, write the title of the office and the name of the candidate in the space provided.

(Here place any state measures to be voted on.)

REPUBLICAN PARTY	DEMOCRATIC PARTY	OTHER PARTY
PRESIDENT AND VICE PRESIDENT (Name of candidate) . . . } (Name of candidate) . . . }	PRESIDENT AND VICE PRESIDENT (Name of candidate) . . . } (Name of candidate) . . . }	
UNITED STATES SENATOR (Name of candidate) . . . }	UNITED STATES SENATOR (Name of candidate) . . . }	

(Other partisan offices follow on the ballot in the same form.)

NONPARTISAN OFFICES

SUPERINTENDENT OF PUBLIC INSTRUCTION

Vote for one

- (name of candidate)
- (name of candidate)

JUSTICE OF STATE SUPREME COURT

POSITION -----

Vote for one

- (name of candidate)
- (name of candidate)

(Other nonpartisan offices follow on the ballot in the same form.)

[1977 1st ex.s. c 361 § 61.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

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

No name of any candidate whose nomination at a primary is required by law shall be placed upon the ballot unless it appears upon the certificate of either (1) the state canvassing board, or (2) the county canvassing board, or (3) the state or county central committee of a political party exercising its authority under RCW 29.18.160, to fill a vacancy on its ticket. [1977 1st ex.s. c 329 § 15; 1965 c 9 § 29.30.100. Prior: 1961 c 130 § 9; prior: 1907 c 209 § 24, part; RRS § 5201, part.]

Reviser's note: RCW 29.30.100 was also repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978, without cognizance of its amendment by 1977 1st ex.s. c 329 § 15.

29.30.100 General election ballots—What names to appear. [1965 c 9 § 29.30.100. Prior: 1961 c 130 § 9; prior: 1907 c 209 § 24, part; RRS § 5201, part.] Repealed by 1977 1st ex.s. c 361 § 111, effective January 1, 1978.

Reviser's note: This section was also amended by 1977 1st ex.s. c 329 without cognizance of the repeal thereof.

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

No name of any candidate whose nomination at a primary is required by law shall be placed upon the ballot unless it appears upon the certificate of either (1) the secretary of state, or (2) the county canvassing board, or (3) a minor party convention, or (4) of the state or county central committee of a major political party to fill a vacancy on its ticket occasioned by any cause on account of which it is lawfully authorized so to do.

No person who has offered himself as a candidate for the nomination of one party at the primary shall have his name printed on the ballot of the succeeding general election as the candidate of another political party.

No candidate's name shall appear more than once upon the ballot, unless the name appears once for the office of precinct committeeman, in which case the name may appear not more than twice: *Provided*, That any candidate who has been nominated by two or more political parties may, upon a written notice filed with the county auditor within three days after the certification of the canvass of the primary, designate the political party under whose title he desires to have his name placed. [1977 1st ex.s. c 361 § 58.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.110 Repealed. (Effective January 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

29.30.310 Voting devices—All elections—Ballot pages—Uniformity, arrangement, contents required—Ballot cards. All ballot pages for primary, general, or special elections in counties using voting devices shall be uniform in color and size, shall be white, and shall be printed in black ink. The first page shall be identified at the top with the name of the election, the county in which the ballot page is to be used, and the date of the election. On the front of the first ballot page or prominently displayed on each voting device to be used at a primary, general, or special election, there shall be printed instructions directing the voters how to properly record a vote for any candidate and for or against any measure. Beginning at the top of the left hand column, at the left of the line shall appear the name of the position for which the names to the immediate right are candidates, and below the name of the office or position the words, "Vote for", then the words "One", "Two", or a spelled number designating how many persons under that head are to be voted for. Immediately to the right of the name of the office or position shall come the names of all candidates for that position, each followed by the name of the political party, if any, with which the candidate desires to affiliate or the word "nonpartisan", with an arrow or other notation at the right edge of the ballot page indicating where the voter is to punch or otherwise mark his ballot for that candidate. Each position with the names running for that office, shall be separated from the following one by a bold line. All ballot cards for primary elections shall be sequentially numbered, but done in such a way to permit removal of such numbers by precinct election workers without leaving any identifying

marks on the ballot. There shall be no marks on the ballot cards which would distinguish an individual voter's ballot card from other ballot cards in the same precinct. [1977 1st ex.s. c 361 § 33.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.320 Voting devices—Primary ballot—Arrangement of offices—Write-in candidate space. In precincts using voting devices and on absentee ballots designed to be tabulated on a vote tallying system, the positions or offices on a state primary ballot shall be arranged in substantially the following order: United States senator; United States representative; governor; lieutenant governor; secretary of state; state treasurer; state auditor; attorney general; commissioner of public lands; insurance commissioner; state senator; state representative; county officers; superintendent of public instruction; justices of the supreme court; judges of the court of appeals; judges of the superior court; and judges of the district court. For all other jurisdictions appearing [on] the primary ballot, the offices in each jurisdiction shall be grouped together and be in the order of the position numbers assigned to those offices, if any. Unless otherwise specified by law, the names shall be listed in order of filing. There shall be blank spaces for writing in the name of any candidate, if desired, on the ballot card or envelope. [1977 1st ex.s. c 361 § 34.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.330 Voting devices—Primary ballot page, form. The form of a ballot page for a primary election shall be substantially as follows:

PRIMARY ELECTION BALLOT
----- County
(Date of primary)

To vote for a candidate or for or against a measure, punch through the ballot card in the hole to the RIGHT of the measure or of the name of the person for whom you desire to vote. To vote for a person not on the ballot, write the title of the office, the name of the candidate, and party affiliation if for a partisan office, in the space provided on the ballot card or ballot envelope.

UNITED STATES SENATOR	(Name of candidate)	(Party)—>
	(Name of candidate)	(Party)—>
Vote for one	(Name of candidate)	(Party)—>
UNITED STATES REPRESENTATIVE	(Name of candidate)	(Party)—>
	(Name of candidate)	(Party)—>
Vote for one	(Name of candidate)	(Party)—>

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

[1977 1st ex.s. c 361 § 35.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.340 Voting devices—Primaries—Rotating names of candidates. In primary elections in precincts where votes are cast on voting devices, unless otherwise required, the names of candidates for each office or position shall be first arranged beside each office heading in the order in which their declarations of candidacy were filed. Additional sets of ballot pages for the voting devices shall be printed in which the positions of the names of all candidates for each such office or position shall be changed as many times as there are candidates in the office or position in which there are the greatest number of names. In making the changes of position between each set of ballot pages, the candidates for each such office in the first position under the office heading shall be moved to the last position under that office heading, and each other name shall be moved to the position previously occupied by the name of the preceding candidate under that office heading in the order of filing for such office. After the required sets of ballot pages are printed, they shall be allocated among the various voting devices throughout the county in such a manner that each rotation will be utilized by a nearly equal number of registered voters. The maximum variation between the number of registered voters allocated to any two sets of rotated ballot pages shall not exceed ten percent of the total number of registered voters in the county, with the count taken at the close of the filing period: *Provided*, That this ten percent restriction shall not apply to counties with fewer than twenty-five precincts. [1977 1st ex.s. c 361 § 36.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.350 Voting devices—Sample ballots. In counties or portions of counties using absentee ballots designed to be tabulated on a vote tallying system, on or before the fifteenth day before a primary or an election, the county auditor shall prepare sample ballots which he shall display in a conspicuous place in his office for public inspection. Sample ballots shall be substantially in the same form as the official ballot pages but the names of the candidates for each office shall be arranged thereon in the order in which their declarations of candidacy were filed, except that the position of precinct committeeman shall be shown on the general election sample ballot only by a listing of the position itself, and the names of candidates therefor need not be shown. [1977 1st ex.s. c 361 § 37.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.360 Voting devices—Absentee ballots—Preparation—Time and number. In counties using absentee ballots designed to be tabulated on a vote tallying system, at least twenty days before any primary, each county auditor shall have prepared a sufficient number of such absentee ballots for use by absentee voters. [1977 1st ex.s. c 361 § 38.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.370 Voting devices—Ballot pages—General elections—Requirements. All ballot pages for general elections shall be of the same size for each and every precinct within a county, shall be of a good quality paper, and the names shall be printed thereon in black ink. [1977 1st ex.s. c 361 § 39.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.380 Voting devices—General election—Order of candidates for each office—Write-in candidate space. Where voting devices are used, the candidates for partisan offices shall be listed on the ballot pages at the general election in the following manner: The candidate or candidates of the major political party which received the highest number of votes from the electors of this state for the office of president of the United States at the last presidential election shall appear first beside the office heading, the candidate or candidates of the other major political parties shall follow according to the votes cast for their nominees for president at the last presidential election, and the candidate or candidates of all other parties shall follow in the order of their qualification with the secretary of state. The candidates for nonpartisan offices shall be listed in the manner otherwise provided by law. There shall be blank spaces for writing in the name of any candidate, if desired, on the ballot card or envelope. [1977 1st ex.s. c 361 § 40.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.390 Voting devices—General election—Form of ballot pages. The arrangement of the ballot pages used in general elections shall conform as nearly as possible to the following form:

GENERAL ELECTION BALLOT
----- County
(Date of election)

To vote for a candidate or for or against a measure, punch through the ballot card in the hole to the right of the measure or of the name of the person for whom you desire to vote. To vote for a person not on the ballot, write the title of the office, the name of the candidate, and party affiliation if for a partisan office, in the space provided on the ballot card or ballot envelope.

(Here place any state measures to be voted on.)

PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES	(Name of candidate) and (Name of candidate)	(Party)→
	(Name of candidate) and (Name of candidate)	(Party)→
Vote for one	(Name of candidate) and (Name of candidate)	(Party)→

UNITED STATES SENATOR	(Name of candidate)	(Party)→
	(Name of candidate)	(Party)→
Vote for one	(Name of candidate)	(Party)→

(Other partisan offices follow on the ballot in the same form.)

NONPARTISAN BALLOT

SUPERINTENDENT OF PUBLIC INSTRUCTION	(Name of candidate)	Nonpartisan→
	(Name of candidate)	Nonpartisan→
Vote for one		
JUSTICE OF THE SUPREME COURT POSITION	(Name of candidate)	Nonpartisan→
	(Name of candidate)	Nonpartisan→
Vote for one		

(Other nonpartisan offices follow on the ballot in the same form.)

[1977 1st ex.s. c 361 § 41.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.410 Voting machines—Primary ballot labels—Uniformity, arrangement, contents required. All ballot labels for primary elections in counties using voting machines shall be uniform in color and size, shall be white and printed in black ink. The following instructions shall be prominently displayed in the polling place: "Move the handle of the machine to the RIGHT as far as it will go and leave it there. To vote on measures, pull the lever down over the 'Yes' or 'No' and leave it there. To vote for a candidate, pull the lever down over the name of each candidate you wish to vote for and leave it there. Move the handle of the machine to the LEFT as far as it will go and you have voted." Beginning at the top of the left hand column, at the left of the line shall appear the name of the position for which the names beneath such designation are candidates, and below the office designation the words, "Vote for", then the words "One", "Two", or a spelled number designating how many persons under that head are to be voted for. Below this shall come the names of all candidates for that position, each followed by the name of the political party, if any, with which the candidate desires to affiliate or the word "nonpartisan". Each position with the names running for that office, shall be separated from the adjacent ones by a bold line. [1977 1st ex.s. c 361 § 42.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.420 Voting machines—Primary ballot—Arrangement of offices—Write-in candidate space. In precincts using voting machines the positions or offices on a state primary ballot shall be arranged in substantially the following order: United States senator; United States representative; governor; lieutenant governor; secretary of state; state treasurer; state auditor; attorney

general; commissioner of public lands; insurance commissioner; state senator; state representative; county officers; superintendent of public instruction; justices of the supreme court; judges of the court of appeals; judges of the superior court; and judges of the district court. For all other jurisdictions appearing on the primary ballot, the offices in each jurisdiction shall be grouped together and be in the order of the position numbers assigned to those offices, if any. Unless otherwise specified by law, the names shall be listed in order of filing. The voting machine shall provide blank spaces for writing in the name of any candidate, if desired. [1977 1st ex.s. c 361 § 43.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.430 Voting machines—Primary ballot, form. The form of primary ballots in precincts where voting machines are used shall be substantially as follows:

PRIMARY ELECTION BALLOT

----- County
(Date of primary)

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

UNITED STATES SENATOR	UNITED STATES REPRESENTATIVE
Vote for one	----- District Vote for one
(Name of Candidate) (Party)	(Name of Candidate) (Party)
(Name of Candidate) (Party)	(Name of Candidate) (Party)
(Name of Candidate) (Party)	(Name of Candidate) (Party)

(Other offices follow to the right in order.)

[1977 1st ex.s. c 361 § 44.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.440 Voting machines—Primaries—Rotating names of candidates. In primary elections in precincts where votes are cast on voting machines, unless otherwise required by law, the names of candidates for each office or position shall be first arranged under each office heading in the order in which their declarations of candidacy were filed. Additional sets of ballot labels shall be printed in which the positions of the names of all candidates for each such office or position shall be changed as many times as there are candidates in the office or position in which there are the greatest number of names. In making the changes of position between each set of ballot labels, the candidates for each such office in the first position under the office heading shall be moved to the last position under that office heading, and each other name shall be moved to the position previously occupied by the name of the preceding candidate under that office heading in the order of filing for such office. After the required sets of ballot labels are

printed, they shall be allocated among the various voting machines throughout the county in such a manner that each rotation will be utilized by a nearly equal number of registered voters. The maximum variation between the number of registered voters allocated to any two sets of rotated ballot labels shall not exceed ten percent of the total number of registered voters in the county, with the count taken at the close of the filing period: *Provided*, That this restriction shall not apply to counties with fewer than twenty-five precincts. [1977 1st ex.s. c 361 § 45.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.450 Voting machines—Sample diagrams. In counties or portions of counties using voting machines, on or before the fifteenth day before a primary or an election, the county auditor shall prepare a voting machine diagram which he shall display in a conspicuous place in his office for public inspection. Voting machine diagrams shall be substantially in the same form as the official ballot labels, but the names of the candidates for each office shall be arranged thereon in the order in which their declarations of candidacy were filed, except that the position of precinct committeeman shall be shown on the general election voting machine diagram only by a listing of the position itself, and the names of candidates therefor need not be shown. Voting machine diagrams shall also include instructions for write-in voting. [1977 1st ex.s. c 361 § 46.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.460 Voting machines—Ballot labels—General election—Requirements. All ballot labels for use at a general election shall be of the same size for each and every precinct within the county, shall be of a good quality white paper, and the names shall be printed thereon in black ink. [1977 1st ex.s. c 361 § 47.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.470 Order of lists of candidates. The list of candidates of the party whose candidate for president of the United States received the highest number of votes from the electors of this state in the preceding presidential election shall precede the list of candidates of the party whose candidate for president of the United States received the next highest number of votes from the electors of this state in the preceding presidential election, and the candidates of other parties shall be placed in subsequent rows in the order in which their certificates of nomination have been filed. [1977 1st ex.s. c 361 § 48.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.480 Voting machines—General election—Arrangement of instructions, measures, offices. (1) Prominently displayed in the polling place used at a general election there shall be printed instructions directing the voters how to operate the voting machine

and correctly indicate votes on issues and candidates, including write-in votes. Next after the instructions and before the offices shall be placed the questions of adopting constitutional amendments or any other state or county measures authorized by law to be submitted to the voters of such election. Measures submitted by any jurisdiction other than the state or county may be placed on the same ballot labels as the state and county measures or on separate ballot labels either immediately following the state or county measures or in the position in which offices in that jurisdiction would normally be located.

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

(3) There shall be a lever above the name of each nominee so that a voter may clearly indicate the candidate or the candidates for whom he wishes to cast his vote.

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

(5) If the election is in a year in which a president of the United States is to be elected, in a column separated from the balance of the party tickets by a heavy black line, shall be the names of the candidates for president and vice president. The names of candidates for president and vice president for each political party shall be grouped together, each group enclosed in brackets with a single lever above with which the voter indicates his choice. [1977 1st ex.s. c 361 § 49.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.30.490 Voting machines—General election—Form of ballot labels. (1) Displayed within the voting machine shall be instructions including the following: If you desire to vote for any candidate, pull down the lever above the name of such candidate. If you desire to vote for or against any measure, pull down the lever over the "Yes" or "No" above such measure. To vote for a person not on the ballot, write the name of the candidate in the space provided.

(2) The arrangement of the ballot labels used in general elections shall conform as nearly as possible to the following form:

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

PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES Vote for one	UNITED STATES SENATOR Vote for one
(Names of candidates) (Party)	(Name of candidate) (Party)

(Names of candidates) (Party)	(Name of candidate) (Party)
(Names of candidates) (Party)	(Name of candidate) (Party)

(Other partisan offices follow to the right in the same form.)

Nonpartisan offices appear on a separate portion of the voting machine in the following form:

SUPERINTENDENT OF PUBLIC INSTRUCTION Vote for one	JUSTICE OF THE SUPREME COURT POSITION ----- Vote for one
(Name of candidate) Nonpartisan	(Name of candidate) Nonpartisan
(Name of candidate) Nonpartisan	(Name of candidate) Nonpartisan

[1977 1st ex.s. c 361 § 50.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

**Chapter 29.33
VOTING MACHINES**

Sections	
29.33.180	Publication of diagrams.
29.33.210	Judges of election—Additional, when appointed.
29.33.220	Inspectors and judges of election—Instruction in use of voting machines—Compensation.

29.33.180 Publication of diagrams. Not more than ten nor less than three days before each election at which voting machines are to be used the board or officer charged with the duty of providing ballots shall publish in newspapers representing at least two political parties a diagram of reduced size showing the face of the voting machine after the official ballot labels are arranged thereon, together with illustrated instructions how to vote and a statement of the locations of voting machines which are on public exhibition. Diagrams of voting machines used at general elections held in even-numbered years shall show the position of precinct committeeman, but need not list the names of candidates therefor. In lieu of publication thereof, the board or officer may send by mail or otherwise at least three days before the elections a printed copy of the diagram to each registered voter. [1977 1st ex.s. c 361 § 62; 1965 c 9 § 29.33.180. Prior: 1915 c 114 § 3, part; 1913 c 58 § 8, part; RRS § 5307, part.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

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

29.33.210 Judges of election—Additional, when appointed. If more than one voting machine or voting device is to be used in a precinct, as many additional judges may be appointed as the county auditor determines are required for that primary or election. [1977 1st ex.s. c 361 § 63; 1965 c 9 § 29.33.210. Prior: 1955 c

168 § 2; prior: 1915 c 114 § 4, part; 1913 c 58 § 9, part; RRS § 5308, part.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

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

Precinct election officers: Chapter 29.45 RCW.

29.33.220 Inspectors and judges of election—Instruction in use of voting machines—Compensation. Before each primary at which voting machines are to be used, or more frequently as the custodian deems necessary, the custodian shall instruct all inspectors and judges of election who are to serve thereat in the use of the machine and their duties in connection therewith. The custodian may waive instructional requirements for inspectors and judges of elections who previously have been granted a certificate of proficiency and who have served as precinct officers for a sufficient length of time to be fully qualified to perform his or her duties in connection with the machine: *Provided*, That any inspectors and judges of elections for whom the instructional requirements are waived may at their discretion take advantage of the instructional program outlined herein. He shall give to each inspector and judge who has received instruction and is fully qualified to conduct the election with a machine a certificate to that effect. For the purpose of instruction, the custodian shall call such meetings of the inspectors and judges as may be necessary. As compensation for the time spent in receiving instruction each inspector and judge who qualifies and serves in the election shall receive an additional two hours' compensation to be paid to him at the same time and in the same manner as compensation is paid him for his services on election day. No inspector or judge of election shall serve in any primary or general election at which a voting machine is used unless he has received the required instruction and is fully qualified to perform his duties in connection with the machine and has received a certificate to that effect from the custodian of the machines: *Provided*, That this shall not prevent the appointment of an inspector or judge of election to fill a vacancy in an emergency. [1977 1st ex.s. c 361 § 64; 1975-'76 2nd ex.s. c 46 § 4; 1973 c 102 § 1; 1971 ex.s. c 124 § 1; 1965 c 9 § 29.33.220. Prior: 1955 c 168 § 3; prior: 1915 c 114 § 4, part; 1913 c 58 § 9, part; RRS § 5308, part.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

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

Chapter 29.34

VOTING DEVICES AND VOTE TALLYING SYSTEMS

Sections

29.34.010 Definitions.

[1977 RCW Supp—page 276]

29.34.080 Requirements of voting devices for approval.
29.34.125 Ballot pages, contents and arrangement—Ballot cards, numbering.
29.34.130 Materials, supplies, and procedures—Secretary of state to prescribe.
29.34.143 Instructional requirements—Inspectors and judges of elections.
29.34.145 Instructional requirements—Counting center personnel.
29.34.150 Repealed. (Effective January 1, 1978.)
29.34.153 Counting center, location, direction and observation of proceedings—Technical assistance from private vendors, limitations—Duties of public officials.
29.34.157 Ballot card pick up, delivery, and transportation.
29.34.160 Repealed. (Effective January 1, 1978.)
29.34.163 Vote tallying systems—Programming tests.
29.34.167 Counting ballot cards—Official returns.
29.34.170 Guidance manuals.

29.34.010 Definitions. As used in this chapter:

- (1) "Election" means all state, county, city, town, and district elections, general or special, including primaries;
- (2) "Voting device" means any device into which a ballot card may be inserted and which is so designed and constructed that the vote for any candidate or for and against any measure may be indicated by punching or marking the ballot card;
- (3) "Vote tally system" means one or more machines used for the purpose of automatically examining and counting votes as cast by paper ballots or ballot cards. Such apparatus may be operated manually, electrically, or electronically and may include data processing machines;
- (4) "Precinct election officers" shall mean the inspectors and judges as provided by chapter 29.45 RCW as it now exists or may hereafter be amended;
- (5) "Counting center" means a facility designated by the county auditor for the operation of a vote tally system on the day of a primary or election. [1977 1st ex.s. c 361 § 65; 1967 ex.s. c 109 § 11.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

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

- (1) Secures to the voter secrecy in the act of voting;
- (2) Provides facilities for voting for the candidate of as many political parties or organizations as may make nominations, and for or against as many measures as may be submitted;
- (3) Permits the voter to vote for any person for any office and upon any measure that he has the right to vote for;
- (4) Permits the voter to vote for all the candidates of one party or in part for the candidates of one or more other parties;
- (5) Correctly registers all votes cast for any and all persons and for or against any and all measures;
- (6) Provides that a vote for more than one candidate cannot be cast by one single operation of the voting device or vote tally system except when voting for president and vice president of the United States;

(7) Lists all candidates for any office in every primary and election, special or general. [1977 1st ex.s. c 361 § 66; 1971 ex.s. c 6 § 1; 1967 ex.s. c 109 § 18.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

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

29.34.125 Ballot pages, contents and arrangement—Ballot cards, numbering. (1) On the front of the first ballot page or prominently displayed on each voting device to be used at a general election, there shall be printed instructions directing the voters how to properly record a vote for any candidate and for or against any measure, including write-in votes. After the instructions and before the offices shall be placed the questions of adopting constitutional amendments or any other state measure authorized by law to be submitted to the voters of such election.

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

(3) There shall be an arrow or other notation at the right edge of the ballot page opposite the name of each candidate indicating where the voter is to punch or otherwise mark his ballot card for that candidate.

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

(5) If the election is in a year in which a president of the United States is to be elected, in spaces separated from the balance of the party tickets by a heavy black line, shall be the names and spaces for voting for candidates for president and vice president. The names of candidates for president and vice president for each political party shall be grouped together, each group enclosed in brackets with a single arrow or other notation to the right.

(6) All ballot cards for general elections shall be sequentially numbered, but done in such a way to permit removal of such numbers by precinct election workers without leaving any identifying marks on the ballot. There shall be no printing on the back of the ballot cards nor any mark thereon to distinguish an individual voter's ballot card from other ballot cards from the same precinct. [1977 1st ex.s. c 361 § 67.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.34.130 Materials, supplies, and procedures—Secretary of state to prescribe. (1) Pursuant to RCW 29.04.080, the secretary of state shall by appropriate regulation devise and prescribe the form, size, weight of paper or material, kind of ballot cards, ballot page formats, procedures for conducting logic and accuracy tests

of computer programs, and other materials and supplies and procedures necessary in the use of voting devices or vote tally systems as provided in this chapter and in the process of counting and tabulating the ballots by mechanical, electrical, or electronic devices or equipment.

(2) The secretary of state shall follow the provisions of the Administrative Procedure Act, chapter 34.04 RCW, in adopting the rules and regulations authorized by this chapter. [1977 1st ex.s. c 361 § 68; 1967 ex.s. c 109 § 23.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.34.143 Instructional requirements—Inspectors and judges of elections. Before each primary at which voting devices are to be used, or more frequently as he deems necessary, the county auditor or other election official shall instruct all inspectors and judges of elections who are to serve at that primary or general election in the use of the voting devices and their duties in conjunction with the conduct of that primary or election.

The auditor may waive instructional requirements for inspectors and judges of elections who previously have been granted a certificate of proficiency and who have served as precinct officers for a sufficient length of time to be fully qualified to perform their duties in connection with the voting device: *Provided*, That any inspectors and judges of elections for whom the instructional requirements are waived may at their discretion take advantage of the instructional program outlined herein. He shall give to each inspector or judge who has received instruction and is qualified to conduct the primary or election with the voting devices, a certificate to that effect. For the purpose of instruction, the county auditor or other election officials shall call such meetings of the inspectors or judges as may be necessary. As compensation for the time spent in receiving instruction each inspector or judge who qualifies and serves at the subsequent primary or election shall receive an additional two hours compensation, to be paid to him at the same time and in the same manner as compensation is paid him for his services on the day of the primary or election. No inspector or judge of election shall serve at any primary or general election at which voting devices are used unless he has received the required instruction and is qualified to perform his duties in connection with voting devices and has received a certificate to that effect from the county auditor or other election official: *Provided*, That this shall not prevent the appointment of an inspector or judge of election to fill a vacancy in an emergency. [1977 1st ex.s. c 361 § 69.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.34.145 Instructional requirements—Counting center personnel. Before each state primary or general election at which a vote tallying system is to be used, or more frequently as he deems necessary, the county auditor or other election official shall, during the day of the election, instruct all counting center personnel, including

political party observers, who are to serve at that primary or election in their duties in connection with the handling and tallying of ballots for that primary or election. No person shall serve as an election worker in the counting center at any primary or election at which a vote tallying system is used unless he has received the required instruction and is qualified to perform his duties in connection with the handling and tallying of ballots for that primary or election. No person shall serve as a political party observer unless he has received the required instruction and is familiar with the operation of the vote tallying system and the procedures to be employed to verify the accuracy of the programming for that vote tallying system. [1977 1st ex.s. c 361 § 70.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.34.150 Repealed. (Effective January 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

29.34.153 Counting center, location, direction and observation of proceedings—Technical assistance from private vendors, limitations—Duties of public officials. The county auditor shall determine the location of the counting center for each vote tallying system under his jurisdiction and the number of ballot card precincts assigned to each. Such facility may be located wherever in the judgment of the county auditor best serves the voters.

All proceedings at the counting center shall be under the direction of the county auditor and under the observation of at least two observers, who shall not be from the same political party, appointed by the county chairman of the respective major political party. Such proceedings shall be open to the public, but no persons except those employed and authorized for the purpose shall touch any ballot card or ballot container.

Technical assistance from private vendors to the county auditor shall be limited to advice and assistance in the training of precinct election officers and counting center personnel and the development of instructional materials for use in such training, routine maintenance and repair service on the voting devices and vote tallying systems, and any emergency assistance required due to the mechanical failure of any voting device or vote tallying system. Private vendors may provide the compilation of computer programs and preparation of office and report files according to the specifications established by the county auditor for a specific primary or election. All precinct program cards shall be prepared by the county auditor or the staff of his office. Ballot layout functions are to be performed by the secretary of state for federal offices and state-wide measures and offices, and by the county auditor for all other measures and offices. [1977 1st ex.s. c 361 § 71.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.34.157 Ballot card pick up, delivery, and transportation. At the direction of the county auditor, a representative of each major political party shall together

stop at each designated polling place and pick up the sealed containers containing the voted ballot cards for delivery to the counting center. There may be as many as two such stops at each polling place, but the first stop may not be made prior to 2:00 p.m. and the second stop may not be made until after the polls have been closed to voting.

The procedure for transporting voted ballot cards from the respective polling places to the counting center or to predesignated collection stations shall include, but not be limited to, the following measures:

(1) On the day of the primary or election in precincts where ballots are cast on voting devices, two precinct election officials, one representing each major political party, shall place all voted ballots in noncombustible, water resistant ballot containers, furnished by the county auditor and properly identified with his mailing address, and seal the containers with prenumbered seals. The precinct election officials of each major political party or representative of each major political party designated by the county auditor to deliver such ballots shall transport the sealed ballot containers to the counting center or to a predesignated collection station in an enclosed vehicle, making certain that all doors and windows thereof other than those windows necessary for adequate ventilation are closed and locked.

(2) At the counting center or the collection stations where the sealed ballot containers are delivered by the designated representatives of the major political parties, the county auditor or his designated representative shall receive the sealed ballot containers with the voted ballot cards enclosed, record the time and date together with each precinct and seal number, and complete signed receipts indicating the time, date, and precinct and seal number of each ballot container received, and give a copy of such receipt to the representatives delivering the ballot containers as such containers are received.

(3) If the ballot containers are delivered to the collection station instead of being delivered directly to the counting center, the county auditor or his designated representative shall transfer such election containers to the counting center in an enclosed vehicle, making certain that all doors and windows thereof other than those windows necessary for adequate ventilation are closed and locked. All ballots being so transferred shall be accompanied by two appointed officials, who shall not be of the same political party, and a representative of the county auditor, who may be one of the appointed officials. [1977 1st ex.s. c 361 § 72.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.34.160 Repealed. (Effective January 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

29.34.163 Vote tallying systems—Programming tests. At least three days prior to the day of the primary or general election, all programming for the vote tallying system to be used at that primary or general election shall be tested by the secretary of state or his designee to ascertain that the equipment will correctly count the

vote cast for all candidates and on all measures appearing on the ballot at that primary or general election. The tests shall be conducted by processing a preaudited group of ballots prepared by the office of secretary of state, so punched or marked as to record a predetermined number of ballot votes for each candidate and for and against each measure. For each office for which there are two or more candidates and for each issue, the group of test ballots shall include one or more ballots which have votes in excess of the number allowed by law, in order to verify the ability of the vote tallying system to reject such votes. The test shall be designed to verify the capability of the vote tallying system to perform all of the functions that can reasonably be expected to occur during conduct of that particular primary or election, including but not limited to verification of the content of the ballot format for each precinct or polling place, verification of rotation in the program, and verification of major error identification routines in the program of the vote tallying system. If any error is detected, the cause thereof shall be ascertained and corrected, and an errorless count shall be made before the programming is approved and certified.

Such tests shall be observed by at least two observers, who shall not be of the same political party, designated by the county chairmen of the respective county central committees, and shall be open to candidates, the press, and the public. The secretary of state, the county auditor, and the political party observers shall certify that the test has been properly conducted. Copies of such certification shall be retained by the secretary of state and the county auditor. All programming materials and test ballots shall be securely locked in a noncombustible, water resistant container, and sealed until the day of the primary or general election. This test shall be repeated immediately before the start of the official count of ballots in the same manner as set forth above.

The political party observers, upon mutual agreement, may request a precinct, to be selected at random, at the point of check-in, and manually take a total count of ballots and/or a total count for any one office, return that precinct to the counting center, and request a detailed printout. This may be done as many as three times during the official count so that the accuracy of the proceedings can be again verified by the count of the preaudited group of ballots. [1977 1st ex.s. c 361 § 73.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

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

Upon breaking the seals and opening the containers, all voted ballot cards shall be checked for partially removed chads, whereupon any such partially removed

chads shall be entirely removed from the ballot cards. If it is found that any ballot is damaged or defective so that it cannot properly be counted by the vote tallying system, a true duplicate copy shall be made of the damaged ballot in the presence of witnesses and substituted for the damaged ballot. All such damaged ballots shall be kept by the county auditor until sixty days after the primary or election concerned.

The returns printed by the vote tallying system, to which has been added the count of questioned ballots, challenged ballots, write-in votes, and absentee votes, shall constitute the official returns of the primary or election in that county. [1977 1st ex.s. c 361 § 74.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Certification of returns in paper ballot and voting machine precincts: RCW 29.54.080.

"Chad" defined: RCW 29.01.006(7).

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

There shall be no charge for such manuals, and the number to be printed and the distribution thereof shall be determined by the secretary of state. [1977 1st ex.s. c 361 § 75; 1967 ex.s. c 109 § 32.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Chapter 29.36 ABSENTEE VOTING

Sections

29.36.010	When permissible—Application.
29.36.030	Issuance of ballots and other materials—Envelopes.
29.36.060	How incoming absentee ballots are handled.

29.36.010 When permissible—Application. In addition to those persons authorized under *section 19 of this 1977 amendatory act, any duly registered voter may vote an absentee ballot for any primary or election in the manner provided in this chapter.

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

Such applications must contain the voter's signature and may be made in person or by mail or messenger: *Provided*, That no application for an absentee ballot shall be approved unless the voter's signature upon the application compares favorably with the voter's signature upon his permanent registration record. [1977 1st

ex.s. c 361 § 76; 1974 ex.s. c 35 § 1; 1971 ex.s. c 202 § 37; 1965 c 9 § 29.36.010. Prior: 1963 ex.s. c 23 § 1; 1955 c 167 § 2; prior: (i) 1950 ex.s. c 8 § 1; 1943 c 72 § 1; 1933 ex.s. c 41 § 1; 1923 c 58 § 1; 1921 c 143 § 1; 1917 c 159 § 1; 1915 c 189 § 1; Rem. Supp. 1943 § 5280. (ii) 1933 ex.s. c 41 § 2, part; 1923 c 58 § 2, part; 1921 c 143 § 2, part; 1917 c 159 § 2, part; 1915 c 189 § 2, part; RRS § 5281, part.]

*Reviser's note: "section 19 of this 1977 amendatory act" was among the subject matter of Referendum Measure No. 39, which failed to be approved by the voters at the state general election November 8, 1977, and which therefore did not become law.

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.36.030 Issuance of ballots and other materials—Envelopes. Upon receipt of the voter's signed application, the officer having jurisdiction of the election, or his duly authorized representative, shall issue an absentee ballot for the election concerned.

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

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

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

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

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

State of _____ }
County of _____ } ss.

I, _____, do solemnly swear under the penalty as set forth in RCW 29.36.110 (see below), that I am a resident of and qualified voter in _____ precinct of _____ city in _____ county, Washington; that I have the legal right to vote at the election to be held in said precinct on the _____ day of _____,

19...: That I have not voted another ballot and have herein enclosed my ballot for such election.

(signed) _____
Voter

(date of oath) _____

PENALTY PROVISION: Any person who violates any of the provisions, relating to swearing and voting, shall be guilty of a felony and shall be punished by imprisonment for not more than five years or a fine of not more than five thousand dollars, or by both such fine and imprisonment. [1977 1st ex.s. c 361 § 77; 1974 ex.s. c 73 § 1; 1965 c 9 § 29.36.030. Prior: 1963 ex.s. c 23 § 3; 1955 c 167 § 4; prior: (i) 1933 ex.s. c 41 § 2, part; 1923 c 58 § 2, part; 1921 c 143 § 2, part; 1917 c 159 § 2, part; 1915 c 189 § 2, part; RRS § 5281, part. (ii) 1933 ex.s. c 41 § 3, part; 1923 c 58 § 3, part; 1921 c 143 § 3, part; 1917 c 159 § 3, part; 1915 c 189 § 3, part; RRS § 5282, part.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

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

The county canvassing board, or its duly authorized representatives, may elect not to initial the inner envelope but instead place all such envelopes in containers that can be secured with a numbered metal seal, and such sealed containers shall be stored in the most secure vault available within the courthouse until after 8:00 o'clock p.m. of the day of the primary or election: *Provided*, That in the instance of punchcard absentee ballots, such ballots may be taken from the inner envelopes and all the normal procedural steps performed necessary to prepare punchcard ballots for computer count and then placed in said sealed containers.

The canvassing board or its duly authorized representatives shall examine the postmark, receipt mark and statement on the outer envelope containing the absentee ballot and verify that the voter's signature thereon is the same as that on the original application: *Provided*, That if the postmark is illegible, the date on the outer envelope, which a person attests to as provided in RCW 29.36.030 as now or hereafter amended shall be the date for determining the validity, as to the time of voting, of any absentee ballot under the provisions of this chapter. The board then shall open the outer envelopes not later than the tenth day following any primary or special election, and the fifteenth day following any general election, and remove therefrom the inner envelope containing the ballot.

The inner envelopes shall be initialed by the canvassing board or its duly authorized representatives. The inner envelopes thus initialed must be filed by the county auditor under lock and key. The outer envelopes to which must be attached the corresponding original absentee voter's application shall be sealed securely in one package and shall be kept by the auditor for future use in case any question should arise as to the validity of the vote. [1977 1st ex.s. c 361 § 78; 1973 c 140 § 1; 1965 c 9 § 29.36.060. Prior: 1963 ex.s. c 23 § 5; 1955 c 167 § 7; 1955 c 50 § 2; prior: 1933 ex.s. c 41 § 5, part; 1921 c 143 § 6, part; 1917 c 159 § 4, part; 1915 c 189 § 4, part; RRS § 5285, part.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Chapter 29.39

ABSENTEE SERVICE VOTERS

Sections

29.39.170 Procedure governing receipt and handling of ballots.

29.39.170 Procedure governing receipt and handling of ballots. All procedure governing the receipt and subsequent handling of absent voters' ballots shall be governed by the provisions of chapter 29.36 RCW. [1977 1st ex.s. c 361 § 79; 1965 c 9 § 29.39.170. Prior: 1950 ex.s. c 14 § 17.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Chapter 29.42

POLITICAL PARTIES

Sections

29.42.010 Authority—Generally.

Precinct committeeman, notice of election to indicate office: RCW 29.04.020.

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

- (1) Make its own rules and regulations;
- (2) Call conventions;
- (3) Elect delegates to conventions, state and national;
- (4) Fill vacancies on the ticket;
- (5) Provide for the nomination of presidential electors; and
- (6) Perform all functions inherent in such an organization: *Provided*, That only major political parties shall have the power to designate candidates to appear on the state primary election ballot as provided in RCW 29.18-.150 as now or hereafter amended. [1977 1st ex.s. c 329 § 16; 1965 c 9 § 29.42.010. Prior: 1961 c 130 § 2; prior: 1943 c 178 § 1, part; 1939 c 48 § 1, part; 1927 c 200 § 1, part; 1925 ex.s. c 158 § 1, part; 1909 c 82 § 6, part; 1907 c 209 § 22, part; Rem. Supp. 1943 § 5198, part.]

Vacancies on ticket—How filled: RCW 29.18.150, 29.18.160.

Chapter 29.48

POLLING PLACE REGULATIONS BEFORE POLLS OPEN

Sections

29.48.020 Time for arrival of officers.
29.48.030 Delivery of supplies.
29.48.035 Additional supplies for paper ballots.

29.48.020 Time for arrival of officers. The precinct election officers for each precinct shall meet at the designated polling place at the time set by the county auditor. [1977 1st ex.s. c 361 § 80; 1965 c 9 § 29.48.020. Prior: 1957 c 195 § 6; prior: 1913 c 58 § 12, part; RRS § 5312, part.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Clerks, hour to report: RCW 29.45.020.

29.48.030 Delivery of supplies. Before the hour for opening the polls at any primary or election and allowing a reasonable time for preparation thereof, the county auditor or other officer in charge of such primary or election shall deliver to the inspector or one of the judges of each precinct:

(1) The precinct list of registered voters for that precinct and a suitable means to record the signature, name, and address of the voter;

(2) Ballots equal to the number of voters registered therein or such number as the county auditor or other officer in charge of such primary or election may certify to be necessary;

(3) A suitable ballot container (except when voting machines are in use), with lock and key, having an opening through the lid thereof of no larger size than sufficient to admit a single folded ballot or ballot card;

(4) Two cards of instructions to voters printed in English in large clear type containing full instruction to voters as to how:

(a) To obtain ballots for voting;

(b) To prepare the ballots for deposit in the ballot boxes;

(c) To obtain a new ballot in the place of one spoiled by accident or mistake;

(5) Sample ballots;

(6) Two oaths for each inspector and each judge;

(7) One United States flag;

(8) All other supplies necessary for conducting the election or primary. [1977 1st ex.s. c 361 § 81; 1971 ex.s. c 202 § 40; 1965 c 9 § 29.48.030. Prior: (i) 1921 c 178 § 8; Code 1881 § 3078; 1865 p 34 § 3; RRS § 5322. (ii) 1919 c 163 § 20, part; 1895 c 156 § 9, part; 1889 p 411 § 28, part; RRS § 5293, part. (iii) 1907 c 209 § 20; RRS § 5196. (iv) 1913 c 138 § 29, part; RRS § 5425, part. (v) 1915 c 124 § 1; 1895 c 156 § 5; 1893 c 91 § 1; 1889 p 407 § 18; RRS § 5275. (vi) 1921 c 68 § 1, part; RRS § 5320, part. (vii) 1895 c 156 § 6, part; 1889 p 407 § 20; RRS § 5277, part. (viii) 1895 c 156 § 2, part; Code 1881 § 3074; 1865 p 32 § 8; RRS § 5164, part. (ix) 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part. (x) 1935 c 20 § 5, part; 1921 c 178 § 6, part; 1915 c 114 § 2, part; 1913 c 58 § 7, part; RRS § 5306,

part. (xi) 1854 p 67 § 16; No RRS. (xii) 1854 p 67 § 17, part; No RRS. (xiii) 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part. (xiv) 1915 c 14 § 6, part; 1913 c 58 § 11, part; RRS § 5311, part. (xv) 1933 c 1 § 10, part; RRS § 5114-10, part. (xvi) Code 1881 § 3093, part; RRS § 5338, part. (xvii) 1903 c 85 § 1, part; RRS § 3339, part.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.48.035 Additional supplies for paper ballots. In precincts where votes are cast on paper ballots, the following supplies, in addition to those specified in RCW 29.48.030 as now or hereafter amended, shall be provided:

(1) Two tally books in which the names of the candidates shall be listed in the order in which they appear on the sample ballots and in each case have the proper party designation at the head thereof;

(2) Two certificates or two sample ballots prepared as blanks, for recording of the unofficial results by the precinct election officers. [1977 1st ex.s. c 361 § 82.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Chapter 29.51

POLLING PLACE REGULATIONS DURING VOTING HOURS

Sections

29.51.040 Repealed. (Effective January 1, 1978.)
29.51.125 Determination of who has and who has not voted.

29.51.040 Repealed. (Effective January 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

29.51.125 Determination of who has and who has not voted. At any election, general or special, or at any primary, any political party or committee may designate a person other than a precinct election officer, for each polling place to check a list of registered voters of the precinct to determine who has and who has not voted: *Provided*, That such lists shall be furnished by the party or committee concerned. [1977 1st ex.s. c 361 § 83; 1965 c 9 § 29.51.125. Prior: 1963 ex.s. c 24 § 1.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Major political party defined: RCW 29.01.090.

Poll books—As public records—Copies to representatives of major political parties: RCW 29.04.100.

Chapter 29.54

POLLING PLACE REGULATIONS DURING VOTING HOURS AND AFTER CLOSING

Sections

29.54.010 Destroying surplus ballots and ballot cards.
29.54.035 Paper ballot precincts—Divulging ballot count—Penalty.
29.54.040 Paper ballot precincts—Count continuous—Duties complete, when.

29.54.045 Paper ballot precincts—Counting ballots—Procedure when two or more sets of precinct election officers appointed.
29.54.050 Rejection of ballots and ballot cards or parts thereof.
29.54.060 Questions on legality of ballot or ballot card—Preservation and return of all ballots and ballot cards.
29.54.070 Sealing and return of counted paper ballots.
29.54.080 Paper ballots and voting machines—Certification of result and of returns.
29.54.130 Paper ballot and voting machine precincts—Transmittal of returns—Penalty.
29.54.140 Paper ballot and voting machine precincts—Duplicate copies of unofficial results—Posting—Transmittal.
29.54.170 Voting devices—Maintenance of documents relating to conduct of primary or election.
29.54.180 Ballot cards—Copying on magnetic tape—Retention and copying of original tape.

29.54.010 Destroying surplus ballots and ballot cards. At paper ballot precincts and at ballot card precincts served by a single set of precinct election officers, the inspector and judges of election for each election precinct immediately upon the closing of the polls, and before the ballots are counted, shall destroy all unused ballots or ballot cards furnished for use at such precinct.

At paper ballot precincts and at ballot card precincts served by two sets of precinct election officers, the members of the receiving board shall destroy all unused ballots or ballot cards upon the closing of the polls. [1977 1st ex.s. c 361 § 84; 1965 ex.s. c 101 § 6; 1965 c 9 § 29.54.010. Prior: 1893 c 91 § 2; RRS § 5332.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.54.035 Paper ballot precincts—Divulging ballot count—Penalty. In paper ballot precincts, no election officer or any other person authorized by law to be present while votes are being counted, shall divulge the result of the count of the ballots at any time prior to the closing of the polls. Violation of this section is punishable, upon conviction, by a fine of not less than one hundred dollars nor more than five hundred dollars or imprisonment in the county jail not less than three nor more than six months, or by both such fine and imprisonment. [1977 1st ex.s. c 361 § 85; 1965 c 9 § 29.54.035. Prior: 1955 c 148 § 6.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Divulging returns in voting device precincts: RCW 29.34.167.

29.54.040 Paper ballot precincts—Count continuous—Duties complete, when. In paper ballot precincts, the ballot container shall not be removed from the polls nor shall the counting of the votes be discontinued until all are counted.

The duties of the precinct election officers counting ballots in such precincts shall not be complete until it is determined that:

(1) A recheck of the tally marks accurately reflect the total vote credited to each candidate and the total vote credited for and against each proposition;

(2) The total number of votes cast for all candidates for a single position to be filled does not exceed the number of voters who have signed the poll book;

(3) The records of the votes in each tally book are the same. [1977 1st ex.s. c 361 § 86; 1965 ex.s. c 101 § 9; 1965 c 9 § 29.54.040. Prior: (i) Code 1881 § 3088, part; 1865 p 37 § 1, part; RRS § 5333, part. (ii) Code 1881 § 3090; 1865 p 37 § 1, part; RRS § 5335.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.54.045 Paper ballot precincts—Counting ballots—Procedure when two or more sets of precinct election officers appointed. In paper ballot precincts, when two or more sets of precinct election officers have been appointed as provided in RCW 29.45.050 the following procedure shall apply:

(1) The set or sets designated as the counting board or boards shall commence tabulation of any state primary or state general election at a time set by the officer in charge of the election.

(2) A second ballot container for receiving ballots shall be used, and the first ballot container shall be closed and delivered to the counting board or boards: *Provided*, That there have been at least ten ballots cast. The counting board or boards shall at a time set by the officer in charge of the election proceed to the place provided for them and at once count the votes. When counted they shall return the emptied ballot container to the inspector and judges conducting the election and the latter shall then deliver to the counting board or boards the second ballot container, if there have been at least ten ballots cast, who shall then proceed as before. The counting of ballots and exchange of ballot containers shall continue until the polls are closed after which the election board conducting the election shall conclude their duties and the counting board or boards shall continue until all ballots are counted.

(3) The receiving board conducting the election shall perform all of the duties as now provided by law except for the counting of the ballots, the posting and certification of the unofficial returns and the delivery of the official returns, together with the election supplies to the county auditor.

(4) Suitable oaths of office for all precinct election officials, when two or more sets of officials are employed, shall be prepared by the secretary of state as ex officio chief election officer. [1977 1st ex.s. c 361 § 87; 1973 c 102 § 4; 1965 ex.s. c 101 § 10; 1965 c 9 § 29.54.045. Prior: 1955 c 148 § 5.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.54.050 Rejection of ballots and ballot cards or parts thereof. Ballots and ballot cards must be rejected if:

(1) Two are found folded together;

(2) Marked so as to identify who the voter is: *Provided*, That this subsection (2) shall not apply to absentee ballots;

(3) Printed other than by the respective county auditors or other authorized election officials as provided by law.

Those parts of ballots and ballot cards must not be counted which:

(1) Designate more persons for an office than are to be elected to that office;

(2) Are not in compliance with RCW 29.51.170;

(3) Are not marked with sufficient definiteness to determine the voter's choice or intention: *Provided*, That no ballot or ballot card or part thereof shall be rejected for want of form or mistake in initials of names if the election board can determine to their satisfaction the person voted for and the office intended. [1977 1st ex.s. c 361 § 88; 1973 1st ex.s. c 121 § 2; 1965 ex.s. c 101 § 11; 1965 c 9 § 29.54.050. Prior: (i) Code 1881 § 3091; 1865 p 38 § 2; RRS § 5336. (ii) 1895 c 156 § 10; 1889 p 411 § 29; RRS § 5294. (iii) 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part. (iv) 1895 c 156 § 11, part; 1886 p 128 § 1, part; Code 1881 § 3079, part; 1865 p 34 § 4, part; RRS § 5323, part.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.54.060 Questions on legality of ballot or ballot card—Preservation and return of all ballots and ballot cards. Whenever a question arises in the precinct election board or the counting center as to the legality of a ballot or ballot card or any part thereof, the action thereon together with a concise statement of the facts that gave rise to the objection must be indorsed upon the ballot or attached to the ballot card and signed by a majority of the board or the counting center personnel processing the ballot. All such ballots and statements shall be forwarded to the canvassing board. All ballots and ballot cards must be preserved whether rejected or counted in whole or in part and returned in the same manner as other ballots and ballot cards. [1977 1st ex.s. c 361 § 89; 1965 c 9 § 29.54.060. Prior: Code 1881 § 3080, part; 1865 p 34 § 5, part; RRS § 5324, part.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.54.070 Sealing and return of counted paper ballots. After all the paper ballots have been counted, strung, and tallied it shall be the duty of the inspector to place them in a sealed envelope and write thereon, "Ballots of _____ precinct _____ county, state of Washington, of election held this _____ day of _____, 19__," and deliver such sealed envelope to the auditor of the county or other election official. The county auditor or other officer shall keep the sealed envelope containing said ballots unopened for the period of two months, to be used only as evidence in case or cases of contest when called for. At the end of that time he shall burn or make such disposition of said ballots, as he may deem expedient, in the presence of two other officers. [1977 1st ex.s. c 361 § 90; 1967 ex.s. c 109 § 10; 1965 c 9 § 29.54.070. Prior: 1945 c 90 § 1, part; Code 1881 § 3092, part; 1868 p 19 § 2, part; Rem. Supp. 1945 § 5337, part.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.54.080 Paper ballots and voting machines—Certification of result and of returns. As soon as all the paper ballots have been counted or the voting machines

have been canvassed, two sets of the following papers shall be assembled:

- (1) One poll list;
- (2) One tally book or set of tally sheets, or one statement of canvass where voting machines are used;
- (3) One each of the duplicate oaths of the inspector, the judges and the clerks.

To each set of papers shall be attached a certificate signed by the inspector, the judges and the clerks designating, in the order in which they appear upon the sample ballots, each candidate, the number of votes he received, and the office for which he is a candidate. The number of votes in each case must be written in words and figures (for example five thousand four hundred and fifty-two—(5452)).

One set shall constitute the "returns" to be made to the canvassing board or official; the other set shall be retained by the inspector and preserved by him for at least six months. [1977 1st ex.s. c 361 § 91; 1965 c 9 § 29.54.080. Prior: 1957 c 195 § 9; prior: (i) Code 1881 § 3093, part; 1865 p 38 § 3, part; RRS § 5338, part. (ii) 1903 c 85 § 1, part; Code 1881 § 3094, part; 1865 p 38 § 4, part; RRS § 5339, part.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Voting devices, official returns: RCW 29.34.167.

29.54.130 Paper ballot and voting machine precincts—Transmittal of returns—Penalty. The returns from each election precinct using paper ballots or voting machines shall be transmitted to the county auditor or other election officer either by certified mail or in person by one of the judges or the inspector.

Failure to transmit the returns is a misdemeanor punishable by a fine of not less than five dollars nor more than fifteen dollars. [1977 1st ex.s. c 361 § 92; 1965 c 9 § 29.54.130. Prior: 1957 c 195 § 14; prior: (i) 1935 c 20 § 6, part; 1915 c 114 § 8, part; 1913 c 58 § 14, part; RRS § 5314, part. (ii) Code 1881 § 3093, part; 1865 p 38 § 3, part; RRS § 5338, part. (iii) 1903 c 85 § 1, part; Code 1881 § 3094, part; 1865 p 38 § 4, part; RRS § 5339, part.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.54.140 Paper ballot and voting machine precincts—Duplicate copies of unofficial results—Posting—Transmittal. Before adjourning from the polling place, following a primary or an election in any precinct where votes are cast on paper ballots or voting machines, the precinct election board shall enter the unofficial results in duplicate upon sample ballots or suitable forms furnished for that purpose by the county auditor or other election officer. One copy shall be posted conspicuously on the outside of the polling place and the other transmitted to the county election officer. [1977 1st ex.s. c 361 § 93; 1965 c 9 § 29.54.140. Prior: (i) 1935 c 108 § 2; RRS § 5339-2. (ii) 1935 c 108 § 1; RRS § 5339-1.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

[1977 RCW Supp—page 284]

29.54.170 Voting devices—Maintenance of documents relating to conduct of primary or election. In counties using voting devices the county auditor or other election officer shall maintain, for at least sixty days following each primary or election, the following descriptive documents relating to the conduct of that primary or election:

(1) Ballot page formats together with a record of the format or formats assigned to each precinct;

(2) Program cards, precinct header cards, office and report files, program listings, and any similar programming material related to the control of the vote tallying system for that primary or election; and

(3) All test materials used to verify the accuracy of the tabulating equipment as required by RCW 29.34.163. [1977 1st ex.s. c 361 § 94.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.54.180 Ballot cards—Copying on magnetic tape—Retention and copying of original tape. In each county possessing the facilities necessary to do so, the county auditor or other election official shall copy all voted ballot cards on magnetic tape, deleting any details which could be used to ascertain the identity of any voter and making certain that all ballot cards, as copied, are readily identifiable and segregated by precinct for each primary and election, special or general. Once copied, the county auditor or his designee shall make such disposition of the voted ballot cards as he may deem expedient. The original magnetic tape copy of such voted ballot cards shall be retained in the office of the county auditor for a period of not less than ten years after being made. Copies of any magnetic tapes so retained shall be promptly furnished by the county auditor to any individual requesting them upon receipt of a payment sufficient to cover costs associated therewith. [1977 1st ex.s. c 361 § 95.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Chapter 29.59 CHALLENGING

Sections

29.59.050 Repealed. (Effective January 1, 1978.)

29.59.050 Repealed. (Effective January 1, 1978.)
See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 29.62 CANVASSING THE RETURNS

Sections

29.62.090 Abstract by election officer—Transmittal to secretary of state.
29.62.100 Secretary of state—Primary returns—State offices, etc.
29.62.110 Repealed. (Effective January 1, 1978.)
29.62.150 Repealed. (Effective January 1, 1978.)

29.62.090 Abstract by election officer—Transmittal to secretary of state. Immediately after the official results of a state primary or general election in his county are ascertained, the county auditor or other election officer shall make an abstract of the number of registered voters in each precinct and of all the votes cast in his county at such state primary or general election for and against state measures and for each candidate for federal, state, and legislative office or for any other office which the secretary of state is required by law to canvass. The abstract shall be entered on blanks furnished by the secretary of state or on compatible computer printouts approved by the secretary of state, and transmitted to the secretary of state no later than the next business day following the certification by the county canvassing board. [1977 1st ex.s. c 361 § 96; 1965 c 9 § 29.62.090. Prior: (i) 1895 c 156 § 12; Code 1881 § 3101; 1865 p 40 § 12; RRS § 5346. (ii) Code 1881 § 3103; 1865 p 41 § 14; RRS § 5348.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.62.100 Secretary of state—Primary returns—State offices, etc. The secretary of state shall, as soon as possible but in any event not later than the third Tuesday following the primary, canvass and certify the returns of all primary elections as to candidates for state offices, United States senators and representatives in congress, and all other candidates whose district extends beyond the limits of a single county. [1977 1st ex.s. c 361 § 97; 1965 c 9 § 29.62.100. Prior: 1961 c 130 § 11; prior: 1907 c 209 § 24, part; RRS § 5201, part.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.62.110 Repealed. (Effective January 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

29.62.150 Repealed. (Effective January 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 29.64

STATUTORY RECOUNT PROCEEDINGS

Sections

29.64.010	Application for recount, generally—Requirements for recount by vote tally system—Scope of chapter.
29.64.020	Deposit of fees—Notice of time and place of recount—Attendance.
29.64.060	Expenses of recount—Charges.
29.64.090	State-wide measures—Mandatory recount—Provision for funds for additional expenses.

29.64.010 Application for recount, generally—Requirements for recount by vote tally system—Scope of chapter. An officer of a political party or any person for whom votes were cast in a primary election for nomination as a candidate for election to an office who was not declared nominated may file with the appropriate

canvassing board or boards a written application for a recount of the votes cast at such primary in any precinct for all persons for whom votes were cast in such precinct for such nomination.

An officer of a political party or any person who was a candidate at any general election for election to an office or position who was not declared elected, may file with the appropriate canvassing board or boards a written application for a recount of the votes cast at such election in any precinct in such county for all candidates for election to such office or position.

Any group of five or more registered voters may file with the appropriate canvassing board or boards a written application for a recount of the votes cast at any election, regular or special, in any precinct upon any question or issue, provided that the members of such group shall state in such application that they voted on such question or proposition. Such group of electors shall, in such application, designate one of the members of the group as chairman, and shall indicate therein the voting residence of each member of such group. In the event the recount requested concerns a regular or special district election whereat the precincts were combined and the election results of the individual precincts impossible to determine, the application for the recount shall embrace all ballots cast at such district election.

An application for recount in a precinct using a vote tally system shall specify whether the recount shall be done manually or by the vote tally system. A recount done by the vote tally system shall use separate and distinct programming from that used in the original count, and shall also provide for a separate and distinct test of the logic and accuracy of such program.

All applications for recount shall be filed within three days, excluding Saturdays and Sundays, after the canvassing board has declared the official results of the primary or election.

The provisions of this chapter shall apply to the recounting of votes cast by paper ballots and counted at the polling places, to the recheck of votes recorded on voting machines, and to the recounting of votes recorded on ballot cards and counted by a vote tally system. The provisions of this chapter shall neither apply to votes cast by absentee ballot and counted by the canvassing authority, nor to votes cast on voting machines printing election returns: *Provided*, That this chapter shall apply to votes cast by absentee and counted by the canvassing authority if specific request for such recount is made at the time the application is filed and the additional deposit is made as provided in RCW 29.64.020. [1977 1st ex.s. c 361 § 98; 1965 c 9 § 29.64.010. Prior: 1963 ex.s. c 25 § 1; 1961 c 50 § 1; 1955 c 215 § 1.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.64.020 Deposit of fees—Notice of time and place of recount—Attendance. Each application for recount shall separately list each precinct as to which a recount of the votes therein is requested, and the person filing an application shall at the same time deposit with the canvassing board the sum of ten dollars in cash or by

certified check for each precinct so listed in such application as security for the payment of charges for the making of the recount therein applied for, which charges shall be fixed by the canvassing board as provided in RCW 29.64.060. In the event the application for a recount applies to a special or regular district election then the deposit to be made with the canvassing board shall be ten dollars in cash or by certified check for each precinct completely or partially within said district. If at said special or regular district election paper ballots were used and the precincts were combined and the election results of the individual precincts impossible to determine, then the deposit shall be a sum of money equal to the total number of ballots cast at such district election multiplied by the factor of five cents; and if a specific request is made for the recount of absentee ballots, then an additional deposit shall be made in a sum of money equal to the total number of such absentee ballots to be counted multiplied by the factor of five cents.

If at said special or regular district election voting machines were used and the precincts were combined and the election results of the individual precincts impossible to determine, then the deposit shall be ten dollars for each voting machine used.

If ballot cards and a vote tally system were used at any precinct as to which a recount is requested, the amount of the deposit required shall depend on whether a manual recount of ballot cards or a recount by the vote tally system is requested. If a manual recount of the ballot cards is requested, the deposit shall be the same as for paper ballots. If a recount by the vote tally system is requested, the deposit shall be five cents for each ballot card.

Upon the filing of an application, the canvassing board shall promptly fix the time when and the place at which the recount will be made, which time shall be not later than five days after the day upon which such application is filed. The county auditor shall mail notice of the time and place so fixed to the applicant. If the application requests a recount of votes cast for a nomination or a candidacy for election, the auditor shall also mail such notice to each person for whom votes were cast for such nomination or election. Such notice shall be mailed by registered mail not later than two days before the date fixed for the commencement of the recount. Each person entitled to receive such notice may attend and witness the recount and may be accompanied by counsel.

In the case of a recount of votes cast upon a question or proposition, a second group of five or more registered voters, who voted upon such question or proposition other than those voters requesting the recount, may file with the canvassing board a written statement to that effect, may designate therein one of their number as chairman of such group and an attorney as their legal counsel, and may request that the persons so designated be permitted to attend and witness the recount. Thereupon the persons so designated may attend and witness the recount. [1977 1st ex.s. c 361 § 99; 1965 c 9 § 29.64.020. Prior: 1961 c 50 § 2; 1955 c 215 § 2.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

[1977 RCW Supp—page 286]

29.64.060 Expenses of recount—Charges. The charges for making a recount of votes of precincts listed in an application for recount filed with the board of elections shall be fixed by the board and shall include all expenses incurred by such board because of such application other than the regular operating expenses which the board would have incurred if the application had not been filed.

The total amount of charges so fixed divided by the number of precincts listed in such application, the votes of which were recounted, shall be the charge per precinct for the recount of the votes of the precincts listed in such application, the votes of which were recounted: *Provided*, That the charges per precinct so fixed shall not be more than the actual cost.

Such charge shall be deducted by the board from the money deposited with the board by the applicant for the recount at the time of filing his application, and the balance of the money so deposited shall be returned to such applicant unless the costs of the recount were higher than the deposit, in which case the applicant shall be required to pay the difference: *Provided*, That no such charges shall be deducted by the board from the money deposited for a recount of votes cast for a nomination or for an election to an office or position in any precinct, if upon the completion of a recount the applicant is declared nominated or elected, or if upon completion of a recount concerning a question or proposition, the result of such election is declared to be opposite to the original declaration of the result of such election. All moneys deposited with the board by an applicant not returned to him shall be paid by such board into the general fund of the political subdivision concerned. [1977 1st ex.s. c 361 § 100; 1965 c 9 § 29.64.060. Prior: 1955 c 215 § 6.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.64.090 State-wide measures—Mandatory recount—Provision for funds for additional expenses. Each county auditor shall file with the secretary of state a statement listing only the additional expenses incurred whenever a mandatory recount of the votes cast on a state measure is made as provided in RCW 29.64.080. The secretary of state shall include in his biennial budget request a provision for sufficient funds to carry out the provisions of this section. Payments hereunder shall be from appropriations specifically provided for such purpose by law. [1977 1st ex.s. c 144 § 5; 1973 c 82 § 2.]

Chapter 29.65 CONTESTS

Sections

29.65.010	Registered voter may start contest—Grounds for.
29.65.020	Affidavit with respect to error or omission concerning issuance of certificate of election—Time for—Statement—Witnesses.
29.65.030	Repealed. (Effective January 1, 1978.)
29.65.040	Hearing date—Citation to issue—Service.
29.65.055	Costs, how awarded.
29.65.110	Repealed. (Effective January 1, 1978.)
29.65.130	Repealed. (Effective January 1, 1978.)

29.65.010 Registered voter may start contest—
Grounds for. Any registered voter may contest the right of any person declared elected to an office to be issued a certificate of election for any of the following causes:

(1) For malconduct on the part of any member of any precinct election board involved therein;

(2) Because the person whose right is being contested was not at the time he was declared elected eligible to that office;

(3) Because the person whose right is being contested was previous to the election convicted of a felony by a court of competent jurisdiction, his conviction not having been reversed nor his civil rights restored after the conviction;

(4) Because the person whose right is being contested gave a bribe or reward to a voter or to an inspector or judge of election for the purpose of procuring his election, or offered to do so;

(5) On account of illegal votes.

All election contests shall proceed under RCW 29.04-.030, as now or hereafter amended. [1977 1st ex.s. c 361 § 101; 1965 c 9 § 29.65.010. Prior: 1959 c 329 § 26; prior: (i) Code 1881 § 3105; 1865 p 42 § 1; RRS § 5366. (ii) Code 1881 § 3109; 1865 p 43 § 5; RRS § 5370.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.65.020 Affidavit with respect to error or omission concerning issuance of certificate of election—
Time for—Statement—Witnesses. An affidavit of an elector with respect to RCW 29.04.030(6) must be filed with the appropriate court no later than ten days following the issuance of a certificate of election and shall set forth specifically:

(1) The name of the contestant and that he is a registered voter in the county, district or precinct, as the case may be, in which the office is to be exercised;

(2) The name of the person whose right is being contested;

(3) The office;

(4) The particular causes of the contest.

No statement of contest shall be dismissed for want of form if the particular causes of contest are alleged with sufficient certainty. The person charged with the error or omission shall be given the opportunity to call any witness, including the candidate to whom he has issued or intends to issue the certificate of election. [1977 1st ex.s. c 361 § 102; 1965 c 9 § 29.65.020. Prior: (i) Code 1881 § 3110; 1865 p 43 § 6; RRS § 5371. (ii) Code 1881 § 3112; 1865 p 44 § 8; RRS § 5373.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.65.030 Repealed. (Effective January 1, 1978.)
 See Supplementary Table of Disposition of Former RCW Sections, this volume.

29.65.040 Hearing date—Citation to issue—
Service. Upon such affidavit being filed, it shall be the duty of the clerk to inform the judge of the appropriate court, who may give notice, and order a session of the

court to be held at the usual place of holding said court, on some day to be named by him, not less than ten nor more than twenty days from the date of such notice, to hear and determine such contested election: *Provided*, That if no session be called for the purpose, such contest shall be determined at the first regular session of court after such statement is filed.

The clerk of the court shall also at the time issue a citation for the person charged with the error or omission, to appear at the time and place specified in the notice, which citation shall be delivered to the sheriff and be served upon the party in person; or if he cannot be found, by leaving a copy thereof at the house where he last resided. [1977 1st ex.s. c 361 § 103; 1965 c 9 § 29.65.040. Prior: (i) Code 1881 § 3113; 1865 p 44 § 9; RRS § 5374. (ii) Code 1881 § 3114; 1865 p 45 § 10; RRS § 5375.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.65.055 Costs, how awarded. If the proceedings are dismissed for insufficiency, want of prosecution, or the election is by the court confirmed, judgment shall be rendered against the party contesting such election for costs, in favor of the party charged with error or omission.

If such election is annulled and set aside, judgment for costs shall be rendered against the party charged with the error or omission and in favor of the party alleging the same. [1977 1st ex.s. c 361 § 104; 1965 c 9 § 29.65.055. Prior: (i) Code 1881 § 3119; 1865 p 45 § 15; RRS § 5379; formerly RCW 29.65.050, part. (ii) Code 1881 § 3120; 1865 p 45 § 16; RRS § 5380, formerly RCW 29.65.050, part.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.65.110 Repealed. (Effective January 1, 1978.)
 See Supplementary Table of Disposition of Former RCW Sections, this volume.

29.65.130 Repealed. (Effective January 1, 1978.)
 See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 29.71

UNITED STATES PRESIDENTIAL ELECTORS

Sections

29.71.020	Nomination—Pledge by candidates for elector— What names on ballots—How counted.
29.71.040	Meeting—Time—Procedure—Voting for nominee of other party, penalty.

29.71.020 Nomination—Pledge by candidates for elector—What names on ballots—How counted. In the years in which presidential elections are held, each political party nominating candidates for president and vice president of the United States shall nominate their presidential electors for this state and file with the secretary of state certificates of nomination for such candidates at the time and in the manner and number

provided by law. Each political party shall require from each candidate for elector a pledge that as an elector he or she will vote for the candidates nominated by that party. The secretary of state shall certify to the county auditors the names of the candidates for president and vice president of the several political parties, which shall be printed on the ballot. The names of candidates for electors of president and vice president shall not be printed upon the ballots. The votes cast for candidates for president and vice president of each political party shall be counted for the candidates for presidential electors of such political party, whose names have been filed with the secretary of state. [1977 1st ex.s. c 238 § 1; 1965 c 9 § 29.71.020. Prior: 1935 c 20 § 1; RRS § 5138-1.]

29.71.040 Meeting—Time—Procedure—Voting for nominee of other party, penalty. The electors of the president and vice president shall convene at the seat of government on the day fixed by federal statute, at the hour of twelve o'clock noon of that day. If there is any vacancy in the office of an elector occasioned by death, refusal to act, neglect to attend, or otherwise, the electors present shall immediately proceed to fill it by viva voce, and plurality of votes. When all of the electors have appeared and the vacancies have been filled they shall constitute the college of electors of the state of Washington, and shall proceed to perform the duties required of them by the Constitution and laws of the United States. Any elector who votes for a person or persons not nominated by the party of which he or she is an elector shall be subject to a civil penalty of up to a fine of one thousand dollars. [1977 1st ex.s. c 238 § 2; 1965 c 9 § 29.71.040. Prior: 1909 c 22 § 1; 1891 c 148 § 3; RRS § 5140.]

Chapter 29.72

PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTIONS—NEW RESIDENT VOTING

Sections

29.72.010 through 29.72.080 Repealed. (Effective January 1, 1978.)
29.72.910 Repealed. (Effective January 1, 1978.)

29.72.010 through 29.72.080 Repealed. (Effective January 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

29.72.910 Repealed. (Effective January 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 29.79

INITIATIVE AND REFERENDUM

Sections

29.79.200 Petitions to legislature—Canvass and count of signatures—Statistical sampling authorized.

29.79.200 Petitions to legislature—Canvass and count of signatures—Statistical sampling authorized. Upon filing the volumes of an initiative petition proposing a measure for submission to the legislature at its next regular session, the secretary of state shall forthwith in the presence of at least one person representing the advocates and one person representing the opponents of the proposed measure, should either desire to be present, proceed to canvass and count the names of the legal voters thereon. The secretary of state may use any statistical sampling techniques for this canvass which have been adopted by rule as provided by chapter 34.04 RCW: *Provided*, That no petition will be rejected on the basis of any statistical method employed: *Provided further*, That no petition will be accepted on the basis of any statistical method employed if such method indicates that the petition contains less than one hundred ten percent of the requisite number of signatures of legal voters. If the secretary of state finds the same name signed to more than one petition he shall reject the name as often as it appears. If the petition is found to be sufficient, the secretary of state shall transmit a certified copy of the proposed measure to the legislature at the opening of its session together with a certificate of the facts relating to the filing of the petition and the canvass thereof. [1977 1st ex.s. c 361 § 105; 1969 ex.s. c 107 § 1; 1965 c 9 § 29.79.200. Prior: 1933 c 144 § 1; 1913 c 138 § 15; RRS § 5411.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Chapter 29.80

CANDIDATES' PAMPHLET

Sections

29.80.010 Contents—Publication.

29.80.010 Contents—Publication. As soon as possible prior to each state general election at which federal or state officials are to be elected, the secretary of state shall publish and mail to each individual place of residence of the state a candidates' pamphlet containing photographs and campaign statements of eligible nominees who desire to participate therein and in even-numbered years containing a description of the office of precinct committeeman and its duties, in order that voters will understand that such office is a state office and will be found on the ballot of the forthcoming general election: *Provided*, That in odd-numbered years no candidates' pamphlet shall be published, unless an election is to be held to fill a vacancy in one or more of the following state-wide elective offices: United States senator, governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, superintendent of public instruction, commissioner of public lands, insurance commissioner, and justice of the supreme court. [1977 1st ex.s. c 361 § 106; 1975-'76 2nd ex.s. c 4 § 2; 1973 c 4 § 8; 1965 c 9 § 29.80.010. Prior: 1959 c 329 § 19.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Chapter 29.81 VOTERS' PAMPHLET

Sections

29.81.014 Contents—Information concerning political party procedures in presidential election process.

29.81.014 Contents—Information concerning political party procedures in presidential election process.

(1) In each odd-numbered year immediately preceding a year in which a president of the United States is to be nominated and elected, the voter's pamphlet shall contain an insert or a detachable section explaining the precinct caucus and convention process utilized by each major political party to elect delegates to its national presidential candidate nominating convention. The information to be provided shall include, but not be limited to: (a) The dates of precinct caucuses, (b) instructions as to how to ascertain the names of current precinct committeepersons, precinct caucus chairpersons, the locations of precinct caucus meeting places, and the dates of county, district, and state conventions, (c) a description of the rules of procedure which will be used at caucuses and conventions, (d) the formulas utilized to allocate delegates elected at caucuses and conventions, and (e) a description of the other actions which may be taken at the caucuses and conventions in addition to selecting delegates. The content and format of this section of the voter's pamphlet shall be established by the secretary of state after consultation with the chairperson of the state central committee of each major political party, or his or her designated representative.

(2) The voter's pamphlet shall also provide a description of the statutory procedures by which minor political parties are formed and the statutory methods utilized by such parties to nominate candidates for president. The content and format of this description shall be established by the secretary of state. [1977 c 56 § 1.]

Chapter 29.82 THE RECALL

Sections

29.82.050 Repealed. (Effective January 1, 1978.)
29.82.090 Canvassing petition for authenticity and sufficiency of signatures—Procedure.
29.82.100 Fixing date for recall election—Notice.
29.82.140 Ascertaining the result—When recall effective.
29.82.150 Repealed. (Effective January 1, 1978.)

29.82.050 Repealed. (Effective January 1, 1978.)
See Supplementary Table of Disposition of Former RCW Sections, this volume.

29.82.090 Canvassing petition for authenticity and sufficiency of signatures—Procedure. At the time set for the canvass, in the presence of at least one person representing the petitioners and in the presence of the person charged, or some one representing him, if either should desire to be present, the canvassing officer shall forthwith compare the signatures on the petition with the voter registration records of that jurisdiction. No signature shall be rejected if the officer conducting the

canvass is reasonably certain that the signature on the petition is the same as the signature of a registered voter of that jurisdiction. The omission to fill any blanks shall not prevent the certification of any name if sufficient information is given to enable one by a comparison of signatures to identify the voter. He shall then proceed to canvass and count the names of certified legal voters on such petitions. If he finds that the same person has signed more than one petition, he shall reject all signatures of such person from the count. [1977 1st ex.s. c 361 § 107; 1965 c 9 § 29.82.090. Prior: 1913 c 146 § 9, part; RRS § 5358, part.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

29.82.100 Fixing date for recall election—Notice. If, at the conclusion of the canvass and count, it is found that a petition for recall bears the requisite number of signatures of certified legal voters, the officer with whom the petition is filed shall fix a date for the special election to determine whether or not the officer charged shall be recalled and discharged from his office. Such special election shall be held not less than forty-five nor more than sixty days from the date of the call and, whenever possible, on one of the dates provided in RCW 29.13.020: *Provided*, That no recall election shall be held between the date of the primary and the date of the general election in any calendar year. Notice thereof shall be given in the manner required by law for special elections in the state or in the political subdivision, as the case may be. [1977 1st ex.s. c 361 § 108; 1971 ex.s. c 205 § 5; 1965 c 9 § 29.82.100. Prior: 1913 c 146 § 9, part; RRS § 5358, part.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Severability—1971 ex.s. c 205: See note following RCW 29.82.020.

29.82.140 Ascertaining the result—When recall effective. The votes on a recall election shall be counted, canvassed, and the results certified in the manner provided by law for counting, canvassing, and certifying the results of an election for the office from which the officer is being recalled: *Provided*, That if the officer whose recall is demanded is the officer to whom, under the law, returns of elections are made, such returns shall be made to the officer with whom the charge is filed, and who called the special election; and in case of an election for the recall of a state officer, the county canvassing boards of the various counties shall canvass and return the result of such election to the officer calling such special election. If a majority of all votes cast at the recall election is for the recall of the officer charged, he shall thereupon be recalled and discharged from his office, and the office shall thereupon become and be vacant. [1977 1st ex.s. c 361 § 109; 1965 c 9 § 29.82.140. Prior: 1913 c 146 § 12; RRS § 5361.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Canvassing the returns: Chapter 29.62 RCW.

Polling place regulations during voting hours and after closing: Chapter 29.54 RCW.

29.82.150 Repealed. (Effective January 1, 1978.)
See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 29.85
CRIMES AND PENALTIES

Sections	
29.85.105	Nominating certificates and petitions—False information.
29.85.150	Repealed.
29.85.200	Registration law—Registering under false information or name.

29.85.105 Nominating certificates and petitions—False information. Any person who knowingly signs a nominating certificate with any other than his or her true name, or who signs such petition knowing that he or she is not a legal voter or who knowingly makes therein any false statement as to his or her residence shall be guilty of a gross misdemeanor, as provided by RCW 9A.72.040. [1977 1st ex.s. c 329 § 17.]

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

29.85.200 Registration law—Registering under false information or name. Any person who knowingly gives false information on an application for voter registration, or who knowingly makes a false declaration as to his or her qualifications as a voter, or who falsely personates another and procures himself or herself to be registered as the person so personated, or causes himself or herself to be registered under two or more different names, or causes any name to be registered otherwise than in the manner provided by law, shall be guilty of a class C felony under RCW 9A.72.030. [1977 1st ex.s. c 361 § 110; 1965 c 9 § 29.85.200. Prior: 1933 c 1 § 27; RRS § 5114-27; prior: 1893 c 45 § 5; 1889 p 418 § 16; RRS § 5136.]

Effective date—Severability—1977 1st ex.s. c 361: See notes following RCW 29.01.006.

Title 30
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30.04.320	Decodified.
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30.04.500	Fairness in lending act—Short title.
30.04.505	Fairness in lending act—Definitions.
30.04.510	Fairness in lending act—Unlawful practices.
30.04.515	Fairness in lending act—Sound underwriting practices not precluded.

30.04.075 Examination reports and information—Confidential—Privileged—Penalty. (1) All examination reports and all information obtained by the supervisor and the supervisor's staff in conducting examinations of banks, trust companies, or alien banks is confidential and privileged information and shall not be made public or otherwise disclosed to any person, firm, corporation, agency, association, governmental body, or other entity except as provided by RCW 39.58.105.

(2) Subsection (1) of this section notwithstanding, the supervisor may furnish examination reports prepared by the supervisor's office to federal agencies empowered to examine state banks, trust companies, or alien banks; to the examined bank, trust company, or alien bank as provided in subsection (4) of this section; and to officials empowered to investigate criminal charges subject to legal process, valid search warrant, or subpoena. If the supervisor furnishes any examination report to officials empowered to investigate criminal charges, the supervisor may only furnish that part of the report which is necessary and pertinent to the investigation, and the supervisor may do this only after notifying the affected bank, trust company, or alien bank and any customer of the bank, trust company, or alien bank who is named in that part of the report of the order to furnish the part of the examination report unless the officials requesting the report first obtain a waiver of the notice requirement from a court of competent jurisdiction for good cause.

(3) All examination reports furnished under subsection (2) of this section shall remain the property of the division of banking, and no person, agency, or authority to whom reports are furnished or any officer, director, or

employee thereof shall disclose or make public any of the reports or any information contained therein except in published statistical material that does not disclose the affairs of any individual or corporation: *Provided*, That nothing herein shall prevent the use in a criminal prosecution of reports furnished under subsection (2) of this section.

(4) The examination report made by the division of banking is designed for use in the supervision of the bank, trust company, or alien bank, and the supervisor may furnish a copy of the report to the bank, trust company, or alien bank examined. The report shall remain the property of the supervisor and will be furnished to the bank, trust company, or alien bank solely for its confidential use. Under no circumstances shall the bank, trust company, or alien bank or any of its directors, officers, or employees disclose or make public in any manner the report or any portion thereof.

(5) Examination reports and information obtained by the supervisor and the supervisor's staff in conducting examinations shall not be subject to public disclosure under chapter 42.17 RCW.

(6) In any civil action in which the reports are sought to be discovered or used as evidence, any party may, upon notice to the supervisor, petition the court for an in camera review of the report. The court may permit discovery and introduction of only those portions of the report which are relevant and otherwise unobtainable by the requesting party. This subsection shall not apply to an action brought or defended by the supervisor.

(7) This section shall not apply to investigation reports prepared by the supervisor and the supervisor's staff concerning an application for a new bank or trust company or an application for a branch of a bank, trust company, or alien bank: *Provided*, That the supervisor may adopt rules making confidential portions of the reports if in the supervisor's opinion the public disclosure of the portions of the report would impair the ability to obtain the information which the supervisor considers necessary to fully evaluate the application.

(8) Every person who violates any provision of this section shall forfeit the person's office or employment and be guilty of a gross misdemeanor. [1977 1st ex.s. c 245 § 1.]

Severability—1977 1st ex.s. c 245: "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." [1977 1st ex.s. c 245 § 6.]

30.04.320 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.04.400 Bank acquisition or control—Definitions. As used in RCW 30.04.400 through 30.04.410, the following words shall have the following meanings:

(1) "Control" means directly or indirectly alone or in concert with others to own, control, or hold the power to vote twenty-five percent or more of the outstanding stock or voting power of the "controlled" entity;

(2) "Acquiring party" means the person acquiring control of a bank through the purchase of stock; and

(3) "Person" means any individual, corporation, partnership, association, business trust, or other organization. [1977 1st ex.s. c 246 § 1.]

30.04.405 Bank acquisition or control—Application—Registration statement—Violations—Penalties. (1) It is unlawful for any person to acquire control of a bank until thirty days after filing with the supervisor a completed application. The application shall be under oath and contain substantially all of the following information plus any additional information that the supervisor may prescribe as necessary or appropriate in the particular instance for the protection of bank depositors, borrowers, or shareholders and the public interest:

(a) The identity, banking and business experience of each person by whom or on whose behalf acquisition is to be made;

(b) The financial and managerial resources and future prospects of each person involved in the acquisition;

(c) The terms and conditions of any proposed acquisition and the manner in which the acquisition is to be made;

(d) The source and amount of the funds or other consideration used or to be used in making the acquisition, and a description of the transaction and the names of the parties if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition;

(e) Any plan or proposal which any person making the acquisition may have to liquidate the bank, to sell its assets, to merge it with any other bank, or to make any other major change in its business or corporate structure for management;

(f) The identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on its behalf, who makes solicitations or recommendations to shareholders for the purpose of assisting in the acquisition and a brief description of the terms of the employment, retainer, or arrangement for compensation; and

(g) Copies of all invitations for tenders or advertisements making a tender offer to shareholders for the purchase of their stock to be used in connection with the proposed acquisition.

(2) Notwithstanding any other provision of this section, a bank or bank holding company need only notify the supervisor of an intent to acquire control and the date of the proposed acquisition of control at least thirty days before the date of the acquisition of control.

(3) When a person, other than an individual or corporation, is required to file an application under this section, the supervisor may require that the information required by subsection (1)(a), (b), and (f) of this section be given with respect to each person, as defined in RCW 30.04.400(3), who has an interest in or controls a person filing an application under this subsection.

(4) When a corporation is required to file an application under this section, the supervisor may require that information required by subsection (1)(a), (b), and (f) of this section be given for the corporation, each officer and director of the corporation, and each person who is

directly or indirectly the beneficial owner of twenty-five percent or more of the outstanding voting securities of the corporation.

(5) If any tender offer, request, or invitation for tenders or other agreements to acquire control is proposed to be made by means of a registration statement under the Securities Act of 1933 (48 Stat. 74, 15 U.S.C., Sec. 77(a)), as amended, or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C., Sec. 78(a)), as amended, the registration statement or application may be filed with the supervisor in lieu of the requirements of this section.

(6) Any acquisition of control in violation of this section shall be ineffective and void.

(7) Any person who wilfully or intentionally violates this section or any rule adopted pursuant thereto is guilty of a gross misdemeanor pursuant to chapter 9A.20 RCW. Each day's violation shall be considered a separate violation, and any person shall upon conviction be fined not more than one thousand dollars for each day the violation continues. [1977 1st ex.s. c 246 § 2.]

30.04.410 Banks acquisition or control—Grounds for restraining pending acquisition or control. The supervisor may file an action in the superior court of the county in which the bank is located to restrain the pending acquisition or control of a bank if he finds after considering the application and within thirty days after its filing any of the following:

(1) The poor financial condition of any acquiring party might jeopardize the financial stability of the bank or might prejudice the interests of the bank depositors, borrowers, or shareholders;

(2) The plan or proposal of the acquiring party to liquidate the bank, to sell its assets, to merge it with any person, or to make any other major change in its business or corporate structure or management is not fair and reasonable to the bank's depositors, borrowers, or stockholders or is not in the public interest;

(3) The banking and business experience and integrity of any acquiring party who would control the operation of the bank indicates that approval would not be in the interest of the bank's depositors, borrowers, or shareholders;

(4) The information provided by the application is insufficient for the supervisor to make a determination or there has been insufficient time to verify the information provided and conduct an examination of the qualification of the acquiring party; or

(5) The acquisition would not be in the public interest. [1977 1st ex.s. c 246 § 3.]

30.04.450 Violations or unsafe or unsound practices—Notice of charges—Contents—Hearing—Cease and desist order. (1) The supervisor may issue and serve upon a bank or trust company a notice of charges if in the opinion of the supervisor any bank or trust company:

(a) Is engaging or has engaged in an unsafe or unsound practice in conducting the business of the bank or trust company;

(b) Is violating or has violated the law, rule, or any condition imposed in writing by the supervisor in connection with the granting of any application or other request by the bank or trust company or any written agreement made with the supervisor; or

(c) Is about to do the acts prohibited in (a) or (b) of this subsection when the opinion that the threat exists is based upon reasonable cause.

(2) The notice shall contain a statement of the facts constituting the alleged violation or violations or the practice or practices and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the bank or trust company. The hearing shall be set not earlier than ten days nor later than thirty days after service of the notice unless a later date is set by the supervisor at the request of the bank or trust company.

Unless the bank or trust company shall appear at the hearing by a duly authorized representative it shall be deemed to have consented to the issuance of the cease and desist order. In the event of this consent or if upon the record made at the hearing the supervisor finds that any violation or practice specified in the notice of charges has been established, the supervisor may issue and serve upon the bank or trust company an order to cease and desist from the violation or practice. The order may require the bank or trust company and its directors, officers, employees, and agents to cease and desist from the violation or practice and may require the bank to take affirmative action to correct the conditions resulting from the violation or practice.

(3) A cease and desist order shall become effective at the expiration of ten days after the service of the order upon the bank or trust company concerned except that a cease and desist order issued upon consent shall become effective at the time specified in the order and shall remain effective as provided therein unless it is stayed, modified, terminated, or set aside by action of the supervisor or a reviewing court. [1977 1st ex.s. c 178 § 1.]

Severability—1977 1st ex.s. c 178: "If any provision of this 1977 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." [1977 1st ex.s. c 178 § 11.]

30.04.455 Violations or unsafe or unsound practices—Temporary cease and desist order—Issuance. Whenever the supervisor determines that the acts specified in RCW 30.04.450 or their continuation is likely to cause insolvency or substantial dissipation of assets or earnings of the bank or trust company or to otherwise seriously prejudice the interests of its depositors, the supervisor may also issue a temporary order requiring the bank or trust company to cease and desist from the violation or practice. The order shall become effective upon service on the bank or trust company and shall remain effective unless set aside, limited, or suspended by a court in proceedings under RCW 30.04.460 pending the completion of the administrative proceedings under the notice and until such time as the supervisor shall dismiss the charges specified in the notice or until

the effective date of a cease and desist order issued against the bank or trust company under RCW 30.04.450. [1977 1st ex.s. c 178 § 2.]

Severability—1977 1st ex.s. c 178: See note following RCW 30.04.450.

30.04.460 Violations or unsafe or unsound practices—Injunction to set aside, limit or suspend temporary order. Within ten days after a bank or trust company has been served with a temporary cease and desist order, the bank or trust company may apply to the superior court in the county of its principal place of business for an injunction setting aside, limiting, or suspending the order pending the completion of the administrative proceedings pursuant to the notice served under RCW 30.04.455.

The superior court shall have jurisdiction to issue the injunction. [1977 1st ex.s. c 178 § 3.]

Severability—1977 1st ex.s. c 178: See note following RCW 30.04.450.

30.04.465 Violations or unsafe or unsound practices—Injunction to enforce temporary order. In the case of a violation or threatened violation of a temporary cease and desist order issued under RCW 30.04.455, the supervisor may apply to the superior court of the county of the principal place of business of the bank or trust company for an injunction to enforce the order, and the court shall issue an injunction if it determines that there has been a violation or threatened violation. [1977 1st ex.s. c 178 § 4.]

Severability—1977 1st ex.s. c 178: See note following RCW 30.04.450.

30.04.470 Violations or unsafe or unsound practices—Removal of officer or employee or prohibiting participation in bank or trust company affairs—Administrative hearing or judicial review. (1) Any administrative hearing provided in RCW 30.04.450 or 30.12.042 may be held at such place as is designated by the supervisor and shall be conducted in accordance with chapter 34.04 RCW. The hearing shall be private unless the supervisor determines that a public hearing is necessary to protect the public interest after fully considering the views of the party afforded the hearing.

Within sixty days after the hearing the supervisor shall render a decision which shall include findings of fact upon which the decision is based and shall issue and serve upon each party to the proceeding an order or orders consistent with RCW 30.04.450 or 30.12.042, as the case may be.

Unless a petition for review is timely filed in the superior court of the county of the principal place of business of the affected bank or trust company under subsection (2) of this section and until the record in the proceeding has been filed as therein provided, the supervisor may at any time modify, terminate, or set aside any order upon such notice and in such manner as he shall deem proper. Upon filing the record, the supervisor may modify, terminate, or set aside any order only with permission of the court.

The judicial review provided in this section for an order shall be exclusive.

(2) Any party to the proceeding or any person required by an order issued under RCW 30.04.450, 30.04.455, 30.04.465, or 30.12.042 to refrain from any of the violations or practices stated therein may obtain a review of any order served under subsection (1) of this section other than one issued upon consent by filing in the superior court of the county of the principal place of business of the affected bank or trust company within ten days after the date of service of the order a written petition praying that the order of the supervisor be modified, terminated, or set aside. A copy of the petition shall be immediately served upon the supervisor and the supervisor shall then file in the court the record of the proceeding. The court shall have jurisdiction upon the filing of the petition, which jurisdiction shall become exclusive upon the filing of the record to affirm, modify, terminate, or set aside in whole or in part the order of the supervisor except that the supervisor may modify, terminate, or set aside an order with the permission of the court. The judgment and decree of the court shall be final, except that it shall be subject to appellate review under the rules of court.

(3) The commencement of proceedings for judicial review under subsection (2) of this section shall not operate as a stay of any order issued by the supervisor unless specifically ordered by the court.

(4) Service of any notice or order required to be served under RCW 30.04.450, 30.04.455, 30.12.040 or 30.12.042 shall be accomplished in the same manner as required for the service of process in civil actions in superior courts of this state. [1977 1st ex.s. c 178 § 8.]

Severability—1977 1st ex.s. c 178: See note following RCW 30.04.450.

30.04.475 Violations or unsafe or unsound practices—Removal of officer or employee or prohibiting participation in bank or trust company affairs—Jurisdiction of courts in enforcement or issuance of orders, injunctions or judicial review. The supervisor may apply to the superior court of the county of the principal place of business of the bank or trust company affected for the enforcement of any effective and outstanding order issued under RCW 30.04.450, 30.04.455, 30.04.465, or 30.12.042, and the court shall have jurisdiction to order compliance therewith.

No court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any order or to review, modify, suspend, terminate, or set aside any order except as provided in RCW 30.04.460 and 30.04.470. [1977 1st ex.s. c 178 § 9.]

Severability—1977 1st ex.s. c 178: See note following RCW 30.04.450.

30.04.500 Fairness in lending act—Short title. RCW 30.04.505 through 30.04.515 shall be known and may be cited as the "Fairness in Lending Act". [1977 1st ex.s. c 301 § 10.]

Financial institutions disclosure act: Chapter 19.106 RCW.

Unfair practices of financial institutions: RCW 49.60.175.

30.04.505 Fairness in lending act—Definitions. As used in RCW 30.04.505 through 30.04.515:

(1) "Financial institution" means any bank or trust company, mutual savings bank, credit union, mortgage company, or savings and loan association which operates or has a place of business in this state whether regulated by the state or federal government.

(2) "Particular type of loan" refers to a class of loans which is substantially similar with respect to the following:

(a) FHA, VA, or conventional as defined in RCW 19.106.030(2);

(b) Uniform or nonuniform payment;

(c) Uniform or nonuniform rate of interest;

(d) Purpose; and

(e) The location of the real estate offered as security for the loan as being inside or outside of that financial institution's lending area.

(3) "Varying the terms of a loan" includes, but is not limited to the following practices:

(a) Requiring a greater down payment than is usual for the particular type of a loan involved;

(b) Requiring a shorter period of amortization than is usual for the particular type of loan involved;

(c) Charging a higher interest rate than is usual for the particular type of loan involved;

(d) A deliberate underappraisal of the value of the property offered as security. [1977 1st ex.s. c 301 § 11.]

30.04.510 Fairness in lending act—Unlawful practices. Subject to RCW 30.04.515, it shall be unlawful for any financial institution, in processing any application for a loan to be secured by a single-family residence to:

(1) Deny or vary the terms of a loan on the basis that a specific parcel of real estate offered as security is located in a specific geographical area, unless building, remodeling, or continued habitation in such specific geographical area is prohibited or restricted by any local, state, or federal law or rules or regulations promulgated thereunder.

(2) Utilize lending standards that have no economic basis. [1977 1st ex.s. c 301 § 12.]

30.04.515 Fairness in lending act—Sound underwriting practices not precluded. Nothing contained in RCW 30.04.505 through 30.04.510 shall preclude a financial institution from considering sound underwriting practices in processing any application for a loan to any person. Such practices shall include the following:

(1) The willingness and the financial ability of the borrower to repay the loan.

(2) The market value of any real estate and of any other item of property proposed as security for any loan.

(3) Diversification of the financial institution's investment portfolio. [1977 1st ex.s. c 301 § 13.]

Chapter 30.08

ORGANIZATION AND POWERS

Sections

30.08.190 Time of filing—Penalty.

30.08.190 Time of filing—Penalty. Every regular report shall be filed with the supervisor within thirty days from the date of issuance of the notice therefor and proof of publication of such report shall be filed with the supervisor within forty days from such date. Every special report shall be filed with the supervisor within such time as shall be specified by him in the notice therefor.

Every bank and trust company which fails to file any report, required to be filed as aforesaid, or to file proof of publication of any report required to be published, within the time herein specified, shall be subject to a penalty of fifty dollars per day for each day's delay. A civil action for the recovery of any such penalty may be brought by the attorney general in the name of the state. [1977 c 38 § 1; 1955 c 33 § 30.08.190. Prior: 1917 c 80 § 6; RRS § 3213.]

Chapter 30.12

OFFICERS, EMPLOYEES, AND STOCKHOLDERS

Sections

30.12.040 Removal of delinquent officer or employee or prohibiting participation in bank or trust company affairs—Grounds—Notice.

30.12.042 Removal of delinquent officer or employee or prohibiting participation in bank or trust company affairs—Notice contents—Hearing—Order of removal or prohibition.

30.12.044 Removal of delinquent officer or employee or prohibiting participation in bank or trust company affairs—Effect upon quorum—Procedure.

30.12.045 Removal of delinquent officer or employee or prohibiting participation in bank or trust company affairs—Administrative hearing—Judicial review.

30.12.046 Removal of delinquent officer or employee or prohibiting participation in bank or trust company affairs—Jurisdiction of courts in enforcement or issuance of orders, injunctions or judicial review.

30.12.047 Removal of delinquent officer or employee or prohibiting participation in bank or trust company affairs—Violation of final order—Penalty.

30.12.040 Removal of delinquent officer or employee or prohibiting participation in bank or trust company affairs—Grounds—Notice. The supervisor may serve upon a director, officer, or employee of any bank or trust company a written notice of the supervisor's intention to remove the person from office or to prohibit the person from participation in the conduct of the affairs of the bank or trust company, or both, whenever:

(1) In the opinion of the supervisor any director, officer, or employee of any bank or trust company has committed or engaged in:

(a) Any violation of law or rule or of a cease and desist order which has become final;

(b) Any unsafe or unsound practice in connection with the bank or trust company; or

(c) Any act, omission, or practice which constitutes a breach of his fiduciary duty as director, officer, or employee; and

(2) The supervisor determines that:

(a) The bank or trust company has suffered or may suffer substantial financial loss or other damage; or

(b) The interests of its depositors could be seriously prejudiced by reason of the violation or practice or breach of fiduciary duty; and

(c) The violation or practice or breach of fiduciary duty is one involving personal dishonesty, recklessness, or incompetence on the part of the director, officer, or employee. [1977 1st ex.s. c 178 § 5; 1955 c 33 § 30.12-.040. Prior: 1933 c 42 § 1; 1917 c 80 § 10; RRS § 3217.]

Severability—1977 1st ex.s. c 178: See note following RCW 30.04.450.

30.12.042 Removal of delinquent officer or employee or prohibiting participation in bank or trust company affairs—Notice contents—Hearing—Order of removal or prohibition. A notice of an intention to remove a director, officer, or employee from office or to prohibit his participation in the conduct of the affairs of a bank or trust company shall contain a statement of the facts which constitute grounds therefor and shall fix a time and place at which a hearing will be held. The hearing shall be set not earlier than ten days nor later than thirty days after the date of service of the notice unless an earlier or later date is set by the supervisor at the request of the director, officer, or employee for good cause shown or of the attorney general of the state.

Unless the director, officer, or employee appears at the hearing personally or by a duly authorized representative, the person shall be deemed to have consented to the issuance of an order of removal or prohibition or both. In the event of such consent or if upon the record made at the hearing the supervisor finds that any of the grounds specified in the notice have been established, the supervisor may issue such orders of removal from office or prohibition from participation in the conduct of the affairs of the bank or trust company as the supervisor may consider appropriate.

Any order shall become effective at the expiration of ten days after service upon the bank and the director, officer, or employee concerned except that an order issued upon consent shall become effective at the time specified in the order.

An order shall remain effective except to the extent it is stayed, modified, terminated, or set aside by the supervisor or a reviewing court. [1977 1st ex.s. c 178 § 6.]

Severability—1977 1st ex.s. c 178: See note following RCW 30.04.450.

30.12.044 Removal of delinquent officer or employee or prohibiting participation in bank or trust company affairs—Effect upon quorum—Procedure. If at any time because of the removal of one or more directors under this chapter there shall be on the board of directors of a bank or trust company less than a quorum of directors, all powers and functions vested in or

exercisable by the board shall vest in and be exercisable by the director or directors remaining until such time as there is a quorum on the board of directors. If all of the directors of a bank or trust company are removed under this chapter, the supervisor shall appoint persons to serve temporarily as directors until such time as their respective successors take office. [1977 1st ex.s. c 178 § 7.]

Severability—1977 1st ex.s. c 178: See note following RCW 30.04.450.

30.12.045 Removal of delinquent officer or employee or prohibiting participation in bank or trust company affairs—Administrative hearing—Judicial review. See RCW 30.04.470.

30.12.046 Removal of delinquent officer or employee or prohibiting participation in bank or trust company affairs—Jurisdiction of courts in enforcement or issuance of orders, injunctions or judicial review. See RCW 30.04.475.

30.12.047 Removal of delinquent officer or employee or prohibiting participation in bank or trust company affairs—Violation of final order—Penalty. Any present or former director, officer, or employee of a bank or trust company or any other person against whom there is outstanding an effective final order served upon the person and who participates in any manner in the conduct of the affairs of the bank or trust company involved; or who directly or indirectly solicits or procures, transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorizations with respect to any voting rights in the bank or trust company; or who, without the prior approval of the supervisor, votes for a director or serves or acts as a director, officer, employee, or agent of any bank or trust company shall upon conviction for a violation of any order, be guilty of a gross misdemeanor punishable as prescribed under chapter 9A.20 RCW, as now or hereafter amended. [1977 1st ex.s. c 178 § 10.]

Severability—1977 1st ex.s. c 178: See note following RCW 30.04.450.

Chapter 30.20 DEPOSITS

Sections

30.20.020 Payment to surviving spouse—Accounting to estate.

30.20.020 Payment to surviving spouse—Accounting to estate. On the death of any depositor of any bank or trust company, such bank or trust company may pay to the surviving spouse, the moneys in said bank or trust company on deposit to the credit of said deceased depositor in cases where the amount of deposit does not exceed the sum of one thousand dollars upon receipt of an affidavit from the surviving spouse, to the effect that the depositor died and no executor or administrator has been appointed for the depositor's estate, and the depositor had on deposit in said bank or trust company money not exceeding the sum of one thousand

dollars. The payment of such deposit made in good faith to the spouse making the affidavit shall be a full acquittance and release of the bank for the amount of the deposit so paid.

No probate proceeding shall be necessary to establish the right of said surviving spouse to withdraw said deposits upon the filing of said affidavit: *Provided, however,* Whenever a personal representative is appointed in an estate where a withdrawal of deposits has been had in compliance with this section, the spouse so withdrawing said deposits shall account for the same to the personal representative. The bank or trust company may also pay out the moneys on deposit to the credit of the deceased upon presentation of an affidavit as provided in RCW 11.62.010 as now or hereafter amended. [1977 1st ex.s. c 234 § 28; 1974 ex.s. c 117 § 39; 1961 c 280 § 2; 1955 c 33 § 30.20.020. Prior: (i) 1943 c 143 § 1; Rem. Supp. 1943 § 3249-1. (ii) 1943 c 143 § 2; Rem. Supp. 1943 § 3249-2.]

Application, effective date—Severability—1977 1st ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

Chapter 30.30

TRUSTEES' ACCOUNTING ACT

Sections

30.30.060 Account filed—Objections—Representation of beneficiaries.

30.30.060 Account filed—Objections—Representation of beneficiaries. Upon or before the return day any beneficiary of the trust may file his written objections or exceptions to the account filed or to any action of the trustee or trustees set forth therein. The court shall appoint either the legal guardian of a beneficiary, or a guardian ad litem to represent the interests of any such beneficiary who is an infant or incompetent or disabled to such an extent that he or she could not understand the accounting given, or who is yet unborn or unascertained, and such beneficiary shall be bound by any action taken by such representative. Every unborn or unascertainable beneficiary shall be concluded by any action taken by the court for or against any living beneficiary of the same class or whose interests are similar to the interests of such unborn or unascertainable beneficiary. [1977 1st ex.s. c 80 § 31; 1955 c 33 § 30.30.060. Prior: 1951 c 226 § 6.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Chapter 30.42

ALIEN BANKS

Sections

30.42.145 Examination reports and information—Confidential—Privileged—Penalty.

30.42.145 Examination reports and information—Confidential—Privileged—Penalty. See RCW 30.04.075.

Title 31

MISCELLANEOUS LOAN AGENCIES

Chapters

31.08 Small loan companies.
31.12 Credit unions.
31.13 Central credit unions.

Chapter 31.08

SMALL LOAN COMPANIES

Sections

31.08.020 License required.
31.08.030 Application for license—Fees—Assets—Bond.
31.08.050 Investigation and action on application.
31.08.070 Additional bond.
31.08.080 License required for each place of business.
31.08.090 Annual license fee and bond.
31.08.150 Prohibited acts.
31.08.160 Rates and charges—Splitting loans prohibited.
31.08.173 Limitation on term of contract.
31.08.180 Loans in excess of two thousand five hundred dollars—Restrictions.
31.08.190 Assignment of earnings as loan.
31.08.200 Chapter governs interest rates.

31.08.020 License required. No person shall engage in the business of making secured or unsecured loans of money, credit, goods, or things in action in the amount or of the value of two thousand five hundred dollars or less and charge, contract for, or receive a greater rate of interest, discount, or consideration therefor than the lender would be permitted by law to charge if he were not a licensee hereunder except as authorized by this chapter and without first obtaining a license from the supervisor. [1977 1st ex.s. c 150 § 1; 1959 c 212 § 1; 1941 c 208 § 2; Rem. Supp. 1941 § 8371-2.]

31.08.030 Application for license—Fees—Assets—Bond. Application for such license shall be in writing, under oath, and in the form, if any, prescribed by the supervisor, and shall contain the name and the address (both of the residence and place of business) of the applicant, and if the applicant is a copartnership or association, of every member thereof, and if a corporation, of each officer and director thereof; also the county and municipality with street and number, if any, where the business is to be conducted and such further relevant information as the supervisor may require. Such applicant at the time of making such application shall pay to the supervisor the sum of two hundred and fifty dollars as a fee for investigating the application and the additional sum of one hundred dollars as an annual license fee for a period terminating on the last day of the current calendar year.

Every applicant shall also prove, in form satisfactory to the supervisor, that he or it has available for the

operation of such business at the location specified in the application, liquid assets of at least fifty thousand dollars.

At the time of filing of the application, the applicant shall also file with the supervisor a bond to be approved by the supervisor in the penal sum of one thousand dollars, executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety, whose liability as such surety shall not exceed the said sum in the aggregate. Such bond shall run to the state of Washington as obligee for the use and benefit of the state and of any person or persons who may have cause of action against the obligor of said bond under the provisions of this chapter. Such bond shall be conditioned that said obligor as licensee hereunder will faithfully conform to and abide by the provisions of this chapter and of all general rules and regulations lawfully made by the supervisor hereunder and will pay to the state and any such person or persons any and all moneys that may become due and owing to the state from such obligor under and by virtue of the provisions of this chapter. [1977 1st ex.s. c 150 § 2; 1959 c 212 § 2; 1941 c 208 § 3; Rem. Supp. 1941 § 8371-3. Formerly RCW 31.08.030 and 31.08.040.]

31.08.050 Investigation and action on application.

Upon the filing of such application and the payment of such fees and the approval of such bond the supervisor shall investigate the facts and if he shall find that the financial responsibility, experience, character, and general fitness of the applicant, and of the members thereof if the applicant be a copartnership or association, and of the officers and directors thereof if the applicant be a corporation, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter, and that allowing such applicant to engage in business, will promote the convenience and advantage of the community in which the business of the applicant is to be conducted, and that the applicant has available for the operation of such business at the specified location liquid assets of at least fifty thousand dollars, (the foregoing facts being conditions precedent to the issuance of a license under this chapter), he shall thereupon issue and deliver a license to the applicant to make loans in accordance with the provisions of this chapter at the location specified in the said application, which license shall remain in full force and effect until it is surrendered by the licensee or revoked or suspended as hereinafter provided; if the supervisor shall not so find he shall not issue such license and he shall notify the applicant of the denial and return to the applicant the bond and sum paid by the applicant as a license fee, retaining the two hundred and fifty dollars investigation fee to cover the costs of investigating the application. The supervisor shall approve or deny every application for license hereunder within sixty days from the filing thereof with the said fees and the said approved bond.

If the application is denied, the supervisor shall within twenty days thereafter file with the division of banking of the department of general administration his order of

denial together with his findings with respect thereto and the reasons supporting the order, and forthwith serve upon the applicant a copy thereof, from which order the applicant may request a hearing and appeal pursuant to chapter 34.04 RCW. [1977 1st ex.s. c 150 § 3; 1941 c 208 § 4; Rem. Supp. 1941 § 8371-4.]

31.08.070 Additional bond. If the supervisor shall find at any time that the bond is insecure, depleted, exhausted, or otherwise doubtful, an additional bond of the character specified in RCW 31.08.030, to be approved by him, in the sum of not more than one thousand dollars, shall be filed by the licensee within ten days after written demand upon the licensee by the supervisor.

Every licensee shall maintain at all times assets of at least fifty thousand dollars for each licensed place of business either in liquid form available for the operation of or actually used in the conduct of such business at the location specified in the license. [1977 1st ex.s. c 150 § 4; 1941 c 208 § 6; Rem. Supp. 1941 § 8371-6.]

31.08.080 License required for each place of business. Not more than one place of business shall be maintained under the same license, but the supervisor may issue more than one license to the same licensee upon compliance with all the provisions of this chapter governing an original issuance of a license, for each such new license.

Whenever a licensee shall wish to change his place of business to a street address other than that designated in his license he shall give written notice thereof to the supervisor and shall pay to the supervisor an investigation fee of one hundred dollars. Upon receipt of such notice and fee the supervisor shall investigate the facts, and, if he shall find that allowing such licensee to engage in business in such new location will promote the convenience and advantage of the community in which the licensee desires to conduct his business, he shall attach to the license in writing his approval of the change and the date thereof, which shall be authority for the operation of such business under such license at such new location. If the supervisor shall not so find he shall deny the licensee permission so to change the location of his place of business, in the manner specified and subject to the provisions contained in the last paragraph of RCW 31.08.050. [1977 1st ex.s. c 150 § 5; 1941 c 208 § 7; Rem. Supp. 1941 § 8371-7.]

31.08.090 Annual license fee and bond. Every licensee shall, for each license held by him, on or before the twentieth day of each December, pay to the supervisor the sum of one hundred dollars as an annual license fee and shall at the same time file with the supervisor a bond to be approved by the supervisor in the same amount and of the same character as required by RCW 31.08.030. [1977 1st ex.s. c 150 § 6; 1941 c 208 § 8; Rem. Supp. 1941 § 8371-8.]

31.08.150 Prohibited acts. No licensee or other person shall advertise, print, display, publish, distribute, broadcast, or televise or cause or permit to be advertised,

printed, displayed, published, distributed, broadcast, or televised in any manner whatsoever any false, misleading, or deceptive statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action in the amount or of the value of two thousand five hundred dollars or less. The supervisor may order any licensee to desist from any conduct which he shall find to be a violation of the foregoing provisions.

The supervisor may require that rates of charge, if stated by a licensee, be stated fully and clearly in such manner as he may deem necessary to prevent misunderstanding thereof by prospective borrowers.

No licensee shall conduct the business of making loans under this chapter within any office, room, or place of business in which any other business is solicited or transacted, or in association or conjunction therewith, if the supervisor shall find, after five days' written notice and after a hearing that the solicitation or transaction of such other business conceals evasion of this chapter by the licensee or is of such nature that such solicitation or transaction would facilitate evasion of this chapter or of the general rules and regulations lawfully made hereunder, and shall order such licensee in writing to desist from such conduct.

No licensee shall conduct, or advertise such business or make any loan provided for by this chapter under any other name or at any other place of business than that named in a license issued under this chapter.

No licensee shall take any confession of judgment or any power of attorney to confess judgment. No licensee shall take any note, promise to pay, or other obligation signed by the borrower that does not accurately disclose the actual amount of the loan, the time for which it is made, and the agreed rate of charge, nor any instrument in which blanks are left to be filled in after the proceeds of the loan are delivered. When charges are precomputed, as permitted by subsection (3) of RCW 31.08.160, the note shall disclose the amount of the precomputed charge. [1977 1st ex.s. c 150 § 7; 1959 c 212 § 4; 1941 c 208 § 12; Rem. Supp. 1941 § 8371-12.]

31.08.160 Rates and charges—Splitting loans prohibited. (1) Every licensee hereunder may lend any sum of money not to exceed two thousand five hundred dollars in amount and may charge, contract for, and receive thereon charges at a rate not exceeding two and one-half percent per month on that part of the unpaid principal balance of any loan not in excess of five hundred dollars, one and one-half percent per month on that part of the unpaid principal balance of any loan in excess of five hundred dollars and not in excess of one thousand dollars, and one percent per month on any remainder of such unpaid principal balance.

(2) Charges on loans made under this chapter shall not be paid, deducted, discounted, or received in advance, or compounded, but the rate of charge authorized by this section may be precomputed as provided in subsection (3) of this section. Charges on loans made under this chapter, except as permitted by subsection (3) hereof, (a) shall be computed and paid only as a percentage per month of the unpaid principal balance or

portions thereof, and (b) shall be so expressed in every obligation signed by the borrower. For the purpose of this section a month shall be that period of time from any date in a month to the corresponding date in the next month and if there is no such corresponding date then to the last day of the next month; and a day shall be considered one-thirtieth of a month when computation is made for a fraction of a month.

(3) When the loan contract requires repayment in substantially equal and consecutive monthly installments of principal and charges combined, the charges may be precomputed at the monthly rate on scheduled unpaid principal balances according to the terms of the contract and added to the principal of the loan. Every payment may be applied to the combined total of principal and precomputed charge until the contract is fully paid. The acceptance or payment of charges on loans made under the provisions of this subsection shall not be deemed to constitute payment, deduction, or receipt thereof in advance nor compounding under subsection (2) above. Such precomputed charge shall be subject to the following adjustments:

(a) The portion of the precomputed charge applicable to any particular monthly installment period shall bear the same ratio to the total precomputed charge, excluding any adjustment made under paragraph (f) of this subsection, as the balance scheduled to be outstanding during that monthly period bears to the sum of all monthly balances scheduled originally by the contract of loan.

(b) If the loan contract is prepaid in full by cash, a new loan, refinancing, or otherwise before the final installment date, the portion of the precomputed charge applicable to the full installment periods following the installment date nearest the date of such prepayment shall be rebated. In computing any required rebate, any prepayment made on or before the fifteenth day following an installment date shall be deemed to have been made on the installment date preceding such prepayment. If prepayment in full occurs before the first installment date an additional rebate of one-thirtieth of the portion of the precomputed charge applicable to a first installment period of one month shall be made for each day from the date of such prepayment to the first scheduled installment date. If judgment is obtained before the final installment date, the contract balance shall be reduced by the rebate of precomputed charge which would be required for prepayment in full as of the date judgment is obtained.

(c) If the payment date of all wholly unpaid installments on which no default charge has been collected is deferred one or more full months and the contract so provides, the licensee may charge and collect a deferment charge. Such deferment charge shall not exceed the portion of the precomputed charge applicable under the original contract of loan to the first month of the deferment period multiplied by the number of months in said period. The deferment period is the month or months in which no scheduled payment has been made or in which no payment is to be required by reason of the deferment. In computing any default charge, or required rebate, the portion of the precomputed charge

applicable to each deferred balance and installment period following the deferment period and prior to the deferred maturity shall remain the same as that applicable to such balances and periods under the original contract of loan. Such charge may be collected at the time of deferment or at any time thereafter. If a loan is prepaid in full during a deferment period, the borrower shall receive, in addition to the rebate required under paragraph (b) of this subsection, a rebate of that portion of the deferment charge applicable to any unexpired months of the deferment period.

(d) If the payment in full of any scheduled installment is in default more than seven days and the contract so provides, the licensee may charge and collect a default charge not exceeding an amount equal to the portion of the precomputed charge applicable to the final installment period. Said charge may not be collected more than once for the same default and may be collected when such default occurs or any time thereafter. If such default charge is deducted from any payment received after default occurs and such deduction results in the default of a subsequent installment, no charge may be made for the resulting default.

(e) If two or more full installments are in default for one full month or more at any installment date and if the contract so provides, the licensee may reduce the contract balance by the rebate which would be required for prepayment in full on such installment date. Thereafter, charges may be received at the agreed rate computed on actual unpaid balances of the contract for the time outstanding until the contract is fully paid. Charges so collected shall be in lieu of any deferment or default charges which otherwise would accrue on the contract after such installment date.

(f) A licensee and borrower may agree that the first installment due date may be not more than fifteen days more than one month and the amount of such installment may be increased by one-thirtieth of the portion of the precomputed charge applicable to a first installment of one month for each extra day.

(4) No licensee shall induce or permit any borrower to split up or divide any loan, nor induce or permit any person, nor any husband or wife jointly or severally, to become obligated, directly or contingently or both, under more than one contract of loan at the same time, for the purpose or with the result of obtaining a higher rate of charge than would otherwise be permitted by this section. If part or all of the consideration for a loan contract is the unpaid principal balance of a prior loan with the same licensee, then the principal amount payable under such loan contract shall not include any unpaid charges on the prior loan, except charges which have accrued within sixty days before the making of such loan contract and may include the balance of a precomputed contract which remains after giving the rebate required by subsection (3) hereof.

(5) No licensee shall directly or indirectly charge, contract for, or receive any charges or fees except charges authorized by this chapter and the lawful fees, if any, actually and necessarily paid out by the licensee to any public officer for the transferring of title or for filing, recording, or releasing in any public office, any

instrument securing the loan, which fees may be collected when the loan is made, or at any time thereafter. A bona fide error in the calculation of charges or in the recording of such charges in any statement or receipt delivered to the borrower or in the licensee's records shall not be deemed to be a violation of this chapter if the licensee corrects the error. [1977 1st ex.s. c 150 § 8; 1959 c 212 § 5; 1941 c 208 § 13; Rem. Supp. 1941 § 8371-13.]

Interest and usury in general: Chapter 19.52 RCW.

31.08.173 Limitation on term of contract. No contract made by a licensee under this chapter shall provide for a final maturity more than forty-eight and one-half months from the date of making such contract. [1977 1st ex.s. c 150 § 9; 1959 c 212 § 10.]

31.08.180 Loans in excess of two thousand five hundred dollars—Restrictions. No licensee shall directly or indirectly charge, contract for, or receive any interest, discount, or consideration greater than the lender would be permitted by law to charge if he were not a licensee hereunder upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit, of the amount or value of more than two thousand five hundred dollars, exclusive of charges permitted by RCW 31.08.160. [1977 1st ex.s. c 150 § 10; 1959 c 212 § 7; 1941 c 208 § 15; Rem. Supp. 1941 § 8371-15.]

31.08.190 Assignment of earnings as loan. The payment of two thousand five hundred dollars or less in money, credit, goods, or things in action, as consideration for any sale or assignment of, or order for, the payment of wages, salary, commissions, or other compensation for services, whether earned or to be earned, shall for the purpose of regulation under this chapter be deemed a loan secured by such assignment, and the amount by which such assigned compensation retained by the assignee at the completion of the transaction exceeds the total amount of such consideration actually paid by the assignee to the assignor shall for the purpose of regulation under this chapter be deemed interest or charges upon such loan. Such transaction shall be governed by and subject to the provisions of this chapter. [1977 1st ex.s. c 150 § 11; 1959 c 212 § 8; 1941 c 208 § 16; Rem. Supp. 1941 § 8371-16.]

31.08.200 Chapter governs interest rates. No person except as authorized by this chapter shall directly or indirectly charge, contract for, or receive any interest, discount, or consideration greater than the lender would be permitted by law to charge if he were not a licensee hereunder upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit of the amount or value of two thousand five hundred dollars or less.

The foregoing prohibition shall apply to any person who by any device, subterfuge, or pretense whatsoever shall charge, contract for, or receive greater interest, consideration, or charges than is authorized by this chapter for any such loan, use, or forbearance of money,

goods, or things in action or for any such loan, use, or sale of credit.

Interest rates for small loans as described in RCW 31.08.160 are hereby declared to be the maximum rates permissible under the public policy of the state of Washington. With respect to any loan of the amount or value of two thousand five hundred dollars or less for which a greater rate of interest, consideration, or charges than is permitted by RCW 31.08.160 has been charged, contracted for, or received, the lender or his successor in interest shall not be entitled to collect or receive in this state: (1) any principal, interest, consideration or charges whatsoever if any part of the loan transaction occurred in this state; or (2) any interest, consideration or charges in excess of that stated in RCW 31.08.160 if no part of the loan transaction occurred in this state. [1977 1st ex.s. c 150 § 12; 1967 c 180 § 1; 1959 c 212 § 9; 1941 c 208 § 17; Rem. Supp. 1941 § 8371-17.]

Severability—1967 c 180: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provisions to other persons or circumstances is not affected." [1967 c 180 § 16.]

Prior transactions—1967 c 180: "The provisions of this 1967 amendatory act shall not apply to transactions entered into prior to the effective date hereof." [1967 c 180 § 17.]

The foregoing annotations apply to RCW 31.08.200, 31.12.020, 31.12.050, 31.12.160-31.12.190, 31.12.220, 31.12.230, 31.12.245, 31.12.270-31.12.290, 31.12.330 and 31.12.360.

Chapter 31.12 CREDIT UNIONS

Sections

31.12.325 Examination reports and information—Confidential—Privileged—Penalty.

Fairness in lending act: RCW 30.04.500 – 30.04.515.

Financial institutions disclosure act: Chapter 19.106 RCW.

31.12.325 Examination reports and information—Confidential—Privileged—Penalty. (1) All examination reports and all information obtained by the supervisor and the supervisor's staff in conducting examinations of credit unions is confidential and privileged information and shall not be made public or otherwise disclosed to any person, firm, corporation, agency, association, governmental body, or other entity.

(2) Subsection (1) of this section notwithstanding, the supervisor may furnish examination reports prepared by the supervisor's office to federal agencies empowered to examine state credit unions, to the examined credit union as provided in subsection (4) of this section, and to officials empowered to investigate criminal charges subject to legal process, valid search warrant, or subpoena. If the supervisor furnishes any examination report to officials empowered to investigate criminal charges, the supervisor may only furnish that part of the report which is necessary and pertinent to the investigation, and the supervisor may do this only after notifying the affected credit union and any customer of the credit union who is named in that part of the report of the order to furnish the part of the examination report unless the officials requesting the report first obtain a

waiver of the notice requirement from a court of competent jurisdiction for good cause.

(3) All examination reports furnished under subsection (2) of this section shall remain the property of the division of savings and loan associations and no person, agency, or authority to whom reports are furnished or any officer, director, or employee thereof shall disclose or make public any of the reports or any information contained therein except in published statistical material that does not disclose the affairs of any individual or corporation: *Provided*, That nothing herein shall prevent the use in a criminal prosecution of reports furnished under subsection (2) of this section.

(4) The examination report made by the division of savings and loan associations is designed for use in the supervision of the credit union, and the supervisor may furnish a copy of the report to the credit union examined. The report shall remain the property of the supervisor and will be furnished to the credit union solely for its confidential use. Under no circumstances shall the credit union or any of its directors, officers, or employees disclose or make public in any manner the report or any portion thereof.

(5) Examination reports and information obtained by the supervisor and the supervisor's staff in conducting examinations shall not be subject to public disclosure under chapter 42.17 RCW.

(6) In any civil action in which the reports are sought to be discovered or used as evidence, any party may, upon notice to the supervisor, petition the court for an in camera review of the report. The court may permit discovery and introduction of only those portions of the report which are relevant and otherwise unobtainable by the requesting party. This subsection shall not apply to an action brought or defended by the supervisor.

(7) This section shall not apply to investigation reports prepared by the supervisor and the supervisor's staff concerning an application for a new credit union or an application for a branch of a credit union: *Provided*, That the supervisor may adopt rules making confidential portions of the reports if in the supervisor's opinion the public disclosure of the portions of the report would impair the ability to obtain the information which the supervisor considers necessary to fully evaluate the application.

(8) Every person who violates any provision of this section shall forfeit the person's office or employment and be guilty of a gross misdemeanor. [1977 1st ex.s. c 245 § 4.]

Severability—1977 1st ex.s. c 245: See note following RCW 30.04.075.

Chapter 31.13 CENTRAL CREDIT UNIONS

Sections

31.13.010 Definitions.
31.13.020 Authority to organize and operate—Rights and powers—Name—Pre-existing unions.
31.13.030 Bylaws.
31.13.040 Additional rights and powers.
31.13.050 Reserve fund.

31.13.900 Severability—1977 1st ex.s. c 207.

31.13.010 Definitions. The terms used in this chapter shall have the following meanings unless the context in which they are used clearly indicates otherwise.

(1) "Members" shall mean any individual or organization which meets the requirements of RCW 31.12.010 and 31.12.080.

(2) "Member credit union" shall mean any credit union which has been elected to membership and subscribed for at least one share in the central credit union and paid the initial installment thereon.

(3) "Credit union" shall mean a corporation organized under chapter 31.12 RCW or chartered to do business as a credit union by the administrator of the national credit union administration or the successor or successors of him.

(4) "Funds" shall mean deposits and shares of the central credit union members.

(5) For the purpose of establishing required reserves all assets except the following are "risk assets":

(a) Cash on hand;

(b) Deposits and shares in banks, trust companies, savings and loan associations, mutual savings banks or credit unions;

(c) Assets which are insured or guaranteed by, or due from, the federal government or any agency or instrumentalities thereof. [1977 1st ex.s. c 207 § 5.]

31.13.020 Authority to organize and operate—Rights and powers—Name—Pre-existing unions. A central credit union may be organized and operated under this chapter. The central credit union shall have all the rights and powers granted in and be subject to all provisions of chapter 31.12 RCW which are not inconsistent with this chapter. Such credit union shall use the term "central" in its official name. Any central credit union in existence on September 21, 1977 in the state of Washington shall operate under the provisions of this chapter. [1977 1st ex.s. c 207 § 1.]

31.13.030 Bylaws. Notwithstanding any other provision of law, the central credit union may adopt bylaws enabling it to exercise any of the powers, as now existing or hereafter conferred upon, a federally chartered central credit union doing business in this state which is subject to the regulations of the administrator of the national credit union administration, or the successor or successors of him, if the supervisor finds that the exercise of such power:

(1) Serves the public convenience and advantage; and

(2) Equalizes and maintains the quality of competition between the state chartered central credit union and any federally chartered central credit union. [1977 1st ex.s. c 207 § 2.]

31.13.040 Additional rights and powers. The central credit union shall have the following additional rights and powers:

(1) May offer variable rate certificates to its members.

(2) Upon approval of its board of directors, may borrow money on behalf of the central credit union for the purpose of making loans to its members and the payment of debts or withdrawals: *Provided*, That said borrowing capacity shall not exceed fifty percent of the central credit union's paid-in and unimpaired capital and surplus.

(3) May lend to its member credit unions an amount not to exceed seventy-five percent of the aggregate funds of such member credit unions on deposit with the central credit union.

(4) Establish deposit accounts for its member credit unions, under conditions specified by the board of directors. Such deposit accounts shall bear interest at a rate established by the central credit union, which interest shall be considered a business expense.

(5) May enter into agreements with its member credit unions to purchase or sell any:

(a) Real estate loan made by member credit unions;

(b) Certificate or obligation of the United States government or any agency thereof, owned by member credit unions; and

(c) Student loans made by member credit unions pursuant to the federally insured student loan program under Public Law No. 89-329, Title IV, Part (b) of the Higher Education Act of 1965, as amended. [1977 1st ex.s. c 207 § 3.]

31.13.050 Reserve fund. The central credit union may maintain only one reserve fund in addition to the Washington state guarantee fund: *Provided*, That before payment of any interest or dividends by the central credit union, there shall be set apart in said reserve fund not less than ten percent of the net income which has accumulated during the next preceding guaranty period, until such time as the fund shall equal five percent of the risk assets of the central credit union, and thereafter there shall be added to the fund at the end of such period a percentage of the net income which has accumulated during that period which will result in at least maintaining such fund at that amount. [1977 1st ex.s. c 207 § 4.]

31.13.900 Severability—1977 1st ex.s. c 207. If any provision of this 1977 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. [1977 1st ex.s. c 207 § 7.]

Title 32

MUTUAL SAVINGS BANKS

Chapters

32.04	General provisions.
32.08	Organization and powers.
32.12	Deposits—Earnings—Dividends— Interest.
32.20	Investments.

Fairness in lending act: RCW 30.04.500–30.04.515.

Financial institutions disclosure act: Chapter 19.106 RCW.

Chapter 32.04 GENERAL PROVISIONS

Sections

32.04.050	Reports.
32.04.060	Expenses of operation limited.
32.04.160	Decodified.
32.04.220	Examination reports and information—Confidential—Privileged—Penalty.

32.04.050 Reports. A savings bank shall render to the supervisor, in such form as he shall prescribe, at least three regular reports each year exhibiting its resources and liabilities as of such dates as the supervisor shall designate, which shall be the dates designated by the comptroller of the currency of the United States for reports of national banking associations. Every such report, in a condensed form to be prescribed by the supervisor, shall be published once in a newspaper of general circulation, published in the place where the bank is located. A savings bank shall also make such special reports as the supervisor shall call for. A regular report shall be filed with the supervisor within thirty days and proof of the publication thereof within forty days from the date of the issuance of the call for the report. A special report shall be filed within such time as the supervisor shall indicate in the call therefor. A savings bank that fails to file within the prescribed time any report required by this section or proof of the publication of any report required to be published shall be subject to a penalty to the state of fifty dollars for each day's delay, recoverable by a civil action brought by the attorney general in the name of the state. [1977 1st ex.s. c 241 § 1; 1955 c 13 § 32.04.050. Prior: 1925 ex.s. c 86 § 13; 1915 c 175 § 39; RRS § 3368a.]

32.04.060 Expenses of operation limited. No savings bank shall in the course of any fiscal year (which fiscal year shall be deemed to expire on the last day of December in each year) pay or become liable to pay either directly or indirectly for expenses of management and operation more than two and one-half percent of its average assets during such year: *Provided*, That a mutual savings bank with less than one hundred million dollars in deposits may pay or become liable to pay either directly or indirectly for expenses of management and operation up to three and one-half percent of its average assets during the year if, during two of the three prior fiscal years, excluding the present fiscal year, its net current earnings less the sum of the interest paid to its depositors and less the required contributions to its guaranty fund and reserves exceeded two percent of its gross current operating earnings. [1977 1st ex.s. c 171 § 1; 1955 c 13 § 32.04.060. Prior: 1915 c 175 § 44; RRS § 3373.]

32.04.160 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

32.04.220 Examination reports and information—Confidential—Privileged—Penalty. (1) All examination reports and all information obtained by the supervisor and the supervisor's staff in conducting examinations of mutual savings banks is confidential and privileged information and shall not be made public or otherwise disclosed to any person, firm, corporation, agency, association, governmental body, or other entity.

(2) Subsection (1) of this section notwithstanding, the supervisor may furnish examination reports prepared by the supervisor's office to federal agencies empowered to examine mutual savings banks, to the examined mutual savings bank as provided in subsection (4) of this section, and to officials empowered to investigate criminal charges subject to legal process, valid search warrant, or subpoena. If the supervisor furnishes any examination report to officials empowered to investigate criminal charges, the supervisor may only furnish that part of the report which is necessary and pertinent to the investigation, and the supervisor may do this only after notifying the affected mutual savings bank and any customer of the mutual savings bank who is named in that part of the report of the order to furnish the part of the examination report unless the officials requesting the report first obtain a waiver of the notice requirement from a court of competent jurisdiction for good cause.

(3) All examination reports furnished under subsection (2) of this section shall remain the property of the division of banking, and no person, agency, or authority to whom reports are furnished or any officer, director, or employee thereof shall disclose or make public any of the reports or any information contained therein except in published statistical material that does not disclose the affairs of any individual or corporation: *Provided*, That nothing herein shall prevent the use in a criminal prosecution of reports furnished under subsection (2) of this section.

(4) The examination report made by the division of banking is designed for use in the supervision of the mutual savings bank, and the supervisor may furnish a copy of the report to the mutual savings bank examined. The report shall remain the property of the supervisor and will be furnished to the mutual savings bank solely for its confidential use. Under no circumstances shall the mutual savings bank or any of its trustees, officers, or employees disclose or make public in any manner the report or any portion thereof.

(5) Examination reports and information obtained by the supervisor and the supervisor's staff in conducting examinations shall not be subject to public disclosure under chapter 42.17 RCW.

(6) In any civil action in which the reports are sought to be discovered or used as evidence, any party may, upon notice to the supervisor, petition the court for an in camera review of the report. The court may permit discovery and introduction of only those portions of the report which are relevant and otherwise unobtainable by the requesting party. This subsection shall not apply to an action brought or defended by the supervisor.

(7) This section shall not apply to investigation reports prepared by the supervisor and the supervisor's staff concerning an application for a new mutual savings

bank or an application for a branch of a mutual savings bank: *Provided*, That the supervisor may adopt rules making confidential portions of the reports if in the supervisor's opinion the public disclosure of the portions of the report would impair the ability to obtain the information which the supervisor considers necessary to fully evaluate the application.

(8) Every person who violates any provision of this section shall forfeit the person's office or employment and be guilty of a gross misdemeanor. [1977 1st ex.s. c 245 § 2.]

Severability—1977 1st ex.s. c 245: See note following RCW 30.04.075.

Chapter 32.08 ORGANIZATION AND POWERS

Sections

32.08.140 Powers of bank.

32.08.140 Powers of bank. Every mutual savings bank incorporated under this title shall have, subject to the restrictions and limitations contained in this title, the following powers:

(1) To receive deposits of money, to invest the same in the property and securities prescribed in this title, to declare dividends in the manner prescribed in this title, and to exercise by its board of trustees or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of a savings bank.

(2) To issue transferable certificates showing the amounts contributed by any incorporator or trustee to the guaranty fund of such bank, or for the purpose of paying its expenses. Every such certificate shall show that it does not constitute a liability of the savings bank, except as otherwise provided in this title.

(3) To purchase, hold and convey real property as prescribed in RCW 32.20.280.

(4) To pay depositors as hereinafter provided, and when requested, pay them by drafts upon deposits to the credit of the savings bank in any city in the United States, and to charge current rates of exchange for such drafts.

(5) To borrow money in pursuance of a resolution adopted by a vote of a majority of its board of trustees duly entered upon its minutes whereon shall be recorded by ayes and noes the vote of each trustee, for the purpose of repaying depositors, and to pledge or hypothecate securities as collateral for loans so obtained. Immediate written notice shall be given to the supervisor of all amounts so borrowed, and of all assets so pledged or hypothecated.

(6) Subject to such regulations and restrictions as the supervisor finds to be necessary and proper, to borrow money in pursuance of a resolution adopted by a vote of a majority of its board of trustees duly entered upon its minutes whereon shall be recorded by ayes and noes the vote of each trustee, for purposes other than that of repaying depositors and to pledge or hypothecate its assets as collateral for any such loans, provided that no

amount shall at any time be borrowed by a savings bank pursuant to this subsection (6), if such amount, together with the amount then remaining unpaid upon prior borrowings by such savings bank pursuant to this subsection (6), exceeds ten percent of the assets of the savings bank.

The sale of securities or loans by a bank subject to an agreement to repurchase the securities or loans shall not be considered a borrowing. Borrowings from federal, state, or municipal governments or agencies or instrumentalities thereof shall not be subject to the limits of this subsection.

(7) To collect or protest promissory notes or bills of exchange owned by such bank or held by it as collateral, and remit the proceeds of the collections by drafts upon deposits to the credit of the savings bank in any city in the United States, and to charge the usual rates or fees for such collection and remittance for such protest.

(8) To sell gold or silver received in payment of interest or principal of obligations owned by the savings bank or from depositors in the ordinary course of business.

(9) To act as insurance agent for the purpose of writing fire insurance on property in which the bank has an insurable interest, the property to be located in the city in which the bank is situated and in the immediate contiguous suburbs, notwithstanding anything in any other statute to the contrary.

(10) To let vaults, safes, boxes or other receptacles for the safekeeping or storage of personal property, subject to laws and regulations applicable to, and with the powers possessed by, safe deposit companies.

(11) To elect or appoint in such manner as it may determine all necessary or proper officers, agents, boards, and committees, to fix their compensation, subject to the provisions of this title, and to define their powers and duties, and to remove them at will.

(12) To make and amend bylaws consistent with law for the management of its property and the conduct of its business.

(13) To wind up and liquidate its business in accordance with this title.

(14) To adopt and use a common seal and to alter the same at pleasure.

(15) To do all other acts authorized by this title. [1977 1st ex.s. c 104 § 1; 1963 c 176 § 2; 1957 c 80 § 2; 1955 c 13 § 32.08.140. Prior: 1927 c 184 § 1; 1925 ex.s. c 86 § 1; 1915 c 175 § 10; RRS § 3322.]

Mutual savings banks may act as trustee for issuance of crop credit notes: RCW 31.16.250.

Safe deposit repository lease agreements ineffective to create joint ownership or transfer property at death: RCW 11.02.090(3).

Chapter 32.12 DEPOSITS—EARNINGS—DIVIDENDS— INTEREST

Sections

32.12.090 Interest—Rate—Declaration of—Extra—
Notice of changed rate.

**32.12.090 Interest—Rate—Declaration of—
Extra—Notice of changed rate.** (1) Every savings

bank shall regulate the rate of interest upon the amounts to the credit of depositors therewith, in such manner that depositors shall receive as nearly as may be all the earnings of the bank after transferring the amount required by RCW 32.08.120 and such further amounts as its trustees may deem it expedient and for the security of the depositors to transfer to the guaranty fund, which to the amount of ten percent of the amount due its depositors the trustees shall gradually accumulate and hold. Such trustees may also deduct from its net earnings, and carry as reserves for losses, or other contingencies, or as undivided profits, such additional sums as they may deem wise.

(2) Every savings bank may classify its depositors according to the character, amount, regularity, or duration of their dealings with the savings bank, and may regulate the interest in such manner that each depositor shall receive the same ratable portion of interest as all others of his class.

(3) Unimpaired contributions to the initial guaranty fund and to the expense fund, made by the incorporators or trustees of a savings bank, shall be entitled to have dividends apportioned thereon, which may be credited and paid to such incorporators or trustees.

Whenever the guaranty fund of any savings bank is sufficiently large to permit the return of such contributions, the contributors may receive interest thereon not theretofore credited or paid at the same rate paid to depositors.

(4) A savings bank shall not:

(a) Declare, credit or pay any interest except as authorized by a vote of a majority of the board of trustees duly entered upon its minutes, whereon shall be recorded by ayes and noes the vote of each trustee;

(b) Pay any interest other than the regular quarterly or semiannual interest, or the interest on savings certificates of deposit, or the extra dividends prescribed elsewhere in this title: *Provided*, That such bank may pay interest not less often than annually on the anniversary dates of accounts separately classified for this purpose: *Provided, further*, That such bank may pay interest monthly at the rate or rates last authorized by a majority vote of the board of trustees duly entered in its minutes whereon shall be recorded by ayes and noes the vote of each trustee;

(c) Declare, credit or pay interest on any amount to the credit of a depositor for a longer period than the same has been credited: *Provided*, That deposits made not later than the tenth day of any month (unless the tenth day is not a business day, in which case it may be the next succeeding business day), or withdrawn upon one of the last three business days of the month ending any quarterly or semiannual interest period, may have interest paid upon them for the whole of the period or month when they were so deposited or withdrawn: *Provided further*, That if the bylaws so provide, accounts closed between interest periods may be credited with interest at the rate determined by its board of trustees, computing from the last interest period to the date when closed.

(5) The trustees of any savings banks whose undivided profits and guaranty fund, determined in the manner

prescribed in RCW 32.12.070, amount to more than twenty-five percent of the amount due its depositors, shall at least once in three years divide equitably the accumulation beyond such twenty-five percent as an extra dividend to depositors in excess of the regular dividend authorized.

A notice posted conspicuously in a savings bank of a change in the rate of interest shall be equivalent to a personal notice. [1977 1st ex.s. c 104 § 2; 1969 c 55 § 3; 1961 c 80 § 3; 1957 c 80 § 5; 1955 c 13 § 32.12.090. Prior: 1953 c 238 § 3; 1921 c 156 § 4; 1919 c 200 § 3; 1915 c 175 § 25; RRS § 3354.]

Chapter 32.20 INVESTMENTS

Sections

32.20.010	Definitions.
32.20.250	Real estate mortgages.
32.20.255	Real estate contracts, loans and deeds of trust.
32.20.370	Corporate bonds and other interest-bearing or discounted obligations.
32.20.400	Loans for home or property repairs, alterations, appliances, improvements, additions, furnishings, underground utilities, or education.
32.20.410	Limitation of total investment in certain obligations.
32.20.420	Loans for financing land acquisition and development for commercial, industrial, or residential usage.
32.20.460	Low-cost housing—Factory built housing—Mobile homes.

32.20.010 Definitions. The words "mutual savings bank" and "savings bank," whenever used in this chapter, shall mean a mutual savings bank organized and existing under the laws of the state of Washington.

The words "its funds," whenever used in this chapter, shall mean and include moneys deposited with a mutual savings bank, sums credited to the guaranty fund of a mutual savings bank, and the income derived from such deposits or fund, or both, and the principal balance of any outstanding capital notes, and capital debentures. [1977 1st ex.s. c 241 § 2; 1955 c 13 § 32.20.010. Prior: 1929 c 74 § 1; RRS § 3381-1.]

32.20.250 Real estate mortgages. A mutual savings bank may invest its funds in loans secured by first mortgages on real estate subject to the following restrictions:

(1) In all cases of loans upon real property, a note secured by a mortgage on the real estate upon which the loan is made shall be taken by the savings bank from the borrower;

(2) The savings bank shall also be furnished by the borrower, either

(a) A complete abstract of title of the mortgaged property, which abstract shall be signed by the person or corporation furnishing the abstract of title, and which abstract shall be examined by a competent attorney and shall be accompanied by the attorney's opinion approving the title and showing that the mortgage is a first lien; or

(b) A policy of title insurance; or

(c) A duplicate certificate of ownership issued by a registrar of titles.

(3) Where the real estate is other than one to four family residential property, the real estate must be improved to such extent that the net annual income thereof or reasonable annual rental value thereof in the condition existing at the time of making the loan is sufficient to pay the annual interest accruing on such loan in addition to taxes and insurance and a reasonable amount for maintenance and upkeep commensurate with the type of property involved.

(4) No loan on real estate shall be:

(a) For an amount greater than ninety percent of the value of such real estate including improvements if it is improved with one to four family residential dwellings (including but not being limited to condominiums); or

(b) For an amount greater than eighty percent of the value of other real estate, including improvements, unless the savings bank obtains additional collateral, in which case such loan may exceed the limits specified in paragraph (a) or (b) of this subsection: *Provided*, That in no event shall the loan excess exceed the value of the additional collateral.

(5) No mortgage loan shall be made in excess of fifty percent of the value of the security unless its terms require the payment of principal and interest in annual, semiannual, quarterly, or monthly payments, at a rate or rates which if continued would repay the loan in full in not more than thirty years after substantially all loan proceeds have been disbursed, beginning within one year after substantially all loan proceeds have been disbursed and continuing until the loan is reduced to fifty percent or less of the value of the security: *Provided*, That:

(a) Loans secured by property improved with owner-occupied single family residential dwellings (including but not limited to condominiums) may require repayment on such a prudent basis as the bank may determine as long as all principal and interest are paid in full within forty years; and

(b) With respect to all loans made under this section, the terms may require repayment of accrued interest only on amounts disbursed for a period not to exceed five years as long as all the loans are thereafter amortized in annual, semiannual, quarterly, or monthly payments at a rate or rates which if continued would repay the loan in full in not more than thirty years after substantially all the loan proceeds have been disbursed and continuing until the loan is reduced to fifty percent or less of the value of the security.

(6) A loan may be made on real estate which is to be improved by a building or buildings to be constructed with the proceeds of such loan if it is arranged that such proceeds will be used for that purpose and that when so used the property will qualify under this section.

(7) No mortgage loan, or renewal or extension thereof for a period of more than one year, shall be made except upon written application showing the date, name of the applicant, the amount of loan requested, and the security offered, nor except upon the written report of at least two members of the board of investment of the bank certifying on such application according to their best judgment the value of the property to be mortgaged; and the application and written report thereon shall be filed and preserved with the savings bank records for three

years following repayment of the loan or sale of the security if the mortgage is foreclosed.

(8) Every mortgage and assignment of a mortgage taken or held by a savings bank shall be taken and held in its own name and shall immediately be recorded in the office of the county auditor of the county in which the mortgaged property is located.

(9) A mortgage on real estate shall be deemed a first mortgage and lien within the meaning of this section even though:

(a) There is outstanding upon the real estate a lease to which the mortgage is subject, and two members of the board of investment of the bank deem the lease advantageous to the owner of the mortgaged property, and the mortgagee in case of foreclosure of the mortgage can compel the application upon the mortgage debt of substantially all of the rents thereafter to accrue; and/or

(b) There are outstanding nondelinquent taxes or special assessments or both, and the sum of the assessments and the amount of the loan does not exceed the limits herein specified. [1977 1st ex.s. c 104 § 3; 1969 c 55 § 6; 1967 c 145 § 6; 1963 c 176 § 7; 1961 c 80 § 4; 1959 c 41 § 4; 1955 c 80 § 5; 1955 c 13 § 32.20.250. Prior: 1945 c 228 § 4; 1937 c 95 § 13; 1929 c 74 § 20; 1927 c 184 § 2; 1925 ex.s. c 86 § 6; 1921 c 156 § 11n; Rem. Supp. 1945 § 3381-20.]

32.20.255 Real estate contracts, loans and deeds of trust. A mutual savings bank may invest its funds in real estate contracts and in loans secured by real estate mortgages or deeds of trust or real estate contracts not otherwise eligible for investment by the savings bank, which are prudent real estate investments for the bank in the opinion of its board of trustees or of officers or committees designated by the board, whose action is ratified by the board at its regular meeting next following the investment. The total amount a mutual savings bank may invest pursuant to this section shall not exceed ten percent of its funds. [1977 1st ex.s. c 104 § 4; 1971 ex.s. c 222 § 8; 1969 c 55 § 16.]

Severability—1971 ex.s. c 222: See note following RCW 32.04.085.

32.20.370 Corporate bonds and other interest-bearing or discounted obligations. A mutual savings bank may invest its funds in bonds or other interest bearing or discounted obligations of corporations not otherwise eligible for investment by the savings bank which are prudent investments for such bank in the opinion of its board of trustees or of a committee thereof whose action is ratified by such board at its regular meeting next following such investment. The total amount a mutual savings bank may invest pursuant to this section shall not exceed ten percent of its funds. [1977 1st ex.s. c 104 § 5; 1967 c 145 § 9; 1959 c 41 § 6.]

32.20.400 Loans for home or property repairs, alterations, appliances, improvements, additions, furnishings, underground utilities, or education. A mutual savings bank may invest not to exceed ten percent of its funds in loans for home or property repairs, alterations,

appliances, improvements, or additions, home furnishings, for installation of underground utilities, for educational purposes, or for nonbusiness family purposes: *Provided, That*

(1) The principal amount of any loan shall not exceed ten thousand dollars;

(2) The application therefor shall state that the proceeds are to be used for one of the above purposes;

(3) The term of the loan shall not exceed eighty-five months, except in the case of loans for underground utilities or educational loans which may require repayment at such time and upon such terms as the bank may determine; and

(4) Nothing in this section shall permit a mutual savings bank to make secured or unsecured loans on or for inventory as that term is defined in section 9-109(4), chapter 157, Laws of 1965, RCW 62A.9-109(4). [1977 1st ex.s. c 104 § 6; 1969 c 55 § 9; 1967 c 145 § 10; 1963 c 176 § 18.]

32.20.410 Limitation of total investment in certain obligations. The aggregate total amount a mutual savings bank may invest in the following shall not exceed eighty-five percent of its funds:

(1) Mortgages upon real estate and participations therein;

(2) Contracts for the sale of realty;

(3) Mortgages upon leasehold estates; and

(4) Notes secured by pledges or assignments of first mortgages or real estate contracts. [1977 1st ex.s. c 104 § 7; 1969 c 55 § 10; 1963 c 176 § 19.]

32.20.420 Loans for financing land acquisition and development for commercial, industrial, or residential usage. A mutual savings bank may invest not to exceed ten percent of its funds in loans on the security, and for the purpose of financing the acquisition and development, of land for primarily commercial, industrial, or residential usage. Within the ten percent limit, and subject to the further limit hereinafter set forth, the bank may loan up to eighty percent of the appraised value of the land as of the completion of the development thereof into building lots or sites ready for construction thereon. Each such loan shall be repayable within a period of not more than ten years and the interest thereon shall be payable at least semiannually. When any portion of the security is released from the lien of the mortgage, the principal amount of such loan shall be reduced in an amount at least equal to that portion of the total loan secured by the property released.

A loan may be made on real estate which is to be developed with the developments to be paid for with the proceeds of such loan if it is arranged that the proceeds will be used for that purpose and that when so used the property will qualify under this section. [1977 1st ex.s. c 104 § 8; 1969 c 55 § 11; 1967 c 145 § 11.]

32.20.460 Low-cost housing—Factory built housing—Mobile homes. In addition to the portions of its funds permitted to be invested in real estate loans under RCW 32.20.410, a mutual savings bank may

invest not to exceed fifteen percent of its funds in loans and investments as follows:

(1) Loans for the rehabilitation, remodeling, or expansion of existing housing, if it is arranged that the loan proceeds will be used for such purpose. Such loans may be secured by second mortgages, shall require the payment of principal and interest in annual, semiannual, quarterly, or monthly payments at a rate or rates which if continued would repay the loan in full in not more than fifteen years, and shall be in a principal amount not to exceed twenty thousand dollars per living unit for single family housing or twelve thousand five hundred dollars per living unit for multi-family housing.

(2) Loans in connection with, or participation in:

(a) Housing programs of any agency of federal, state, or local government; and

(b) Housing programs of any nonprofit, union, community, public, or quasi-public corporation or entity.

Such housing must be made available to all without regard to race, creed, sex, color, or national origin.

(3) Loans for purchasing or constructing factory built housing, including but not limited to mobile homes used or to be used for permanent or semipermanent housing. The bank shall determine the amount, security, and repayment basis which it considers prudent for the loans. The loan shall be secured by a first mortgage on the real estate, except that no real estate mortgage need be obtained if provision satisfactory to the bank is made for removal of the mobile home or other housing in the event of default and realization on the security.

(4) In mobile home chattel paper which finances the acquisition of inventory by a mobile home dealer if the inventory is to be held for sale in the ordinary course of business by the mobile home dealer, the monetary obligation evidenced by such chattel paper is the obligation of the mobile home dealer and the amount thereof does not exceed the amount allowed to be loaned on such mobile homes under subsection (3) of this section. [1977 1st ex.s. c 104 § 9; 1973 1st ex.s. c 31 § 2.]

Construction—1973 1st ex.s. c 31: See RCW 32.20.500.

Title 33

SAVINGS AND LOAN ASSOCIATIONS

Chapters

33.04 General provisions.

Fairness in lending act: RCW 30.04.500–30.04.515.

Financial institutions disclosure act: Chapter 19.106 RCW.

Chapter 33.04

GENERAL PROVISIONS

Sections

33.04.080

Decodified.

33.04.110

Examination reports and information—Confidential—Privileged—Penalty.

33.04.080 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

33.04.110 Examination reports and information—Confidential—Privileged—Penalty. (1) All examination reports and all information obtained by the supervisor and the supervisor's staff in conducting examinations of savings and loan associations is confidential and privileged information and shall not be made public or otherwise disclosed to any person, firm, corporation, agency, association, governmental body, or other entity.

(2) Subsection (1) of this section notwithstanding, the supervisor may furnish examination reports prepared by the supervisor's office to federal agencies empowered to examine state savings and loan associations, to the examined savings and loan association as provided in subsection (4) of this section, and to officials empowered to investigate criminal charges subject to legal process, valid search warrant, or subpoena. If the supervisor furnishes any examination report to officials empowered to investigate criminal charges, the supervisor may only furnish that part of the report which is necessary and pertinent to the investigation, and the supervisor may do this only after notifying the affected savings and loan association and any customer of the savings and loan association who is named in that part of the report of the order to furnish the part of the examination report unless the officials requesting the report first obtain a waiver of the notice requirement from a court of competent jurisdiction for good cause.

(3) All examination reports furnished under subsection (2) of this section shall remain the property of the division of savings and loan associations and no person, agency, or authority to whom reports are furnished or any officer, director, or employee thereof shall disclose or make public any of the reports or any information contained therein except in published statistical material that does not disclose the affairs of any individual or corporation: *Provided*, That nothing herein shall prevent the use in a criminal prosecution of reports furnished under subsection (2) of this section.

(4) The examination report made by the division of savings and loan associations is designed for use in the supervision of the savings and loan association, and the supervisor may furnish a copy of the report to the savings and loan association examined. The report shall remain the property of the supervisor and will be furnished to the savings and loan association solely for its confidential use. Under no circumstances shall the savings and loan association or any of its directors, officers, or employees disclose or make public in any manner the report or any portion thereof.

(5) Examination reports and information obtained by the supervisor and the supervisor's staff in conducting examinations shall not be subject to public disclosure under chapter 42.17 RCW.

(6) In any civil action in which the reports are sought to be discovered or used as evidence, any party may, upon notice to the supervisor, petition the court for an in camera review of the report. The court may permit discovery and introduction of only those portions of the report which are relevant and otherwise unobtainable by the requesting party. This subsection shall not apply to an action brought or defended by the supervisor.

(7) This section shall not apply to investigation reports prepared by the supervisor and the supervisor's staff concerning an application for a new savings and loan association or an application for a branch of a savings and loan association: *Provided*, That the supervisor may adopt rules making confidential portions of the reports if in the supervisor's opinion the public disclosure of the portions of the report would impair the ability to obtain the information which the supervisor considers necessary to fully evaluate the application.

(8) Every person who violates any provision of this section shall forfeit the person's office or employment and be guilty of a gross misdemeanor. [1977 1st ex.s. c 245 § 3.]

Severability—1977 1st ex.s. c 245: See note following RCW 30.04.075.

Title 34

ADMINISTRATIVE LAW

Chapters

- 34.04 Administrative procedure act.
- 34.08 Washington State Register act of 1977. (Effective January 1, 1978.)

Chapter 34.04

ADMINISTRATIVE PROCEDURE ACT

Sections

- 34.04.025 Notices of intention to adopt rules—Opportunity to submit data—Proceedings on rule barred until twenty days after register distribution—Noncompliance, effect.
- 34.04.026 Specific reference to rule-making authority to be included—Alternatives—Format—Request for more specific reference.
- 34.04.030 Emergency rules and amendments.
- 34.04.045 Statement of rule's purpose and how implemented—Contents—Distribution by agency.
- 34.04.050 Code reviser to compile rules, publish register—Distribution—County law library trustees to maintain set—Judicial notice of rules.
- 34.04.058 Format and style of rules amending existing sections, adding new sections—Effect of failure to comply.
- 34.04.130 Contested cases—Judicial review.

Procedures of various agencies to accord Administrative Procedure Act:

- educational clinics: RCW 28A.97.050.
- in-service training act of 1977: RCW 28A.71.210.
- school facilities cost stabilization program: RCW 28A.03.402.

34.04.025 Notices of intention to adopt rules—Opportunity to submit data—Proceedings on rule barred until twenty days after register distribution—Noncompliance, effect. (1) Prior to the adoption, amendment, or repeal of any rule, each agency shall:

(a) File notice thereof with the code reviser in accordance with RCW 34.08.020(1) for publication in the state register, and mail such notice to all persons who have made timely request of the agency for advance notice of its rule-making proceedings. Such notice shall also include (i) reference to the authority under which

the rule is proposed, (ii) a statement of either the terms or substance of the proposed rule or a description of the subjects and issues involved, and (iii) the time when, the place where, and the manner in which interested persons may present their views thereon;

(b) Afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. In case of substantive rules, opportunity for oral hearing must be granted if requested by twenty-five persons, by a governmental subdivision or agency, or by an association having not less than twenty-five members. The agency shall consider fully all written and oral submissions respecting the proposed rule. Upon adoption of a rule, the agency, if requested to do so by an interested person either prior to adoption or within thirty days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

(2) No proceeding shall be held on any rule until twenty days have passed from the distribution date of the register in which notice thereof was contained. The code reviser shall make provisions for informing an agency giving notice under subsection (1) of this section of the distribution date of the register in which such notice will be published.

(3) No rule hereafter adopted is valid unless adopted in substantial compliance with this section, or, if an emergency rule designated as such, adopted in substantial compliance with RCW 34.04.030, as now or hereafter amended. In any proceeding a rule cannot be contested on the ground of noncompliance with the procedural requirements of RCW 34.08.020(1), of this section, or of RCW 34.04.030, as now or hereafter amended, after two years have elapsed from the effective date of the rule. [1977 1st ex.s. c 240 § 7; 1971 ex.s. c 250 § 17; 1967 c 237 § 3.]

Effective date—1977 1st ex.s. c 240: See note following RCW 34.08.010.

Severability—1977 1st ex.s. c 240: See RCW 34.08.910.

Construction—**Severability**—1971 ex.s. c 250: RCW 42.30.910, 42.30.920.

34.04.026 Specific reference to rule-making authority to be included—Alternatives—Format—Request for more specific reference. (1) In addition to the provisions of RCW 34.04.025(1)(a)(i), every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules:

(a) The most specific reference shall be to a section of law which the rule is implementing, and shall be quoted as follows: "This rule is promulgated pursuant to RCW _____ and is intended to administratively implement that statute."

(b) The next specific reference, and one which shall be used only if paragraph (a) of this subsection is not applicable, shall be to that portion of an act which directs an agency to adopt rules and regulations as necessary to implement the act, and shall be quoted as follows: "This rule is promulgated pursuant to RCW _____ which directs that the (agency) has

authority to implement the provisions of (name of act or RCW citation)."

(c) The least specific reference, and one which shall be used only if paragraphs (a) and (b) of this subsection are not applicable, is one which indicates that the rule is promulgated under the agency's broad rule-making authority—either in the agency enabling legislation or chapter 34.04 RCW, and shall be quoted as follows: "This rule is promulgated under the general rule-making authority of the (agency) as authorized in RCW _____."

(2) The code reviser is directed to develop a format for placing such specific language in each rule, and agencies shall then comply with the code reviser's direction, and shall include the same in the final rule.

(3) During the promulgation hearings process the public may question whether such rule should have a more specific reference, and the agency shall, pursuant to RCW 34.04.025(1)(b), give consideration to such requests. [1977 c 19 § 2.]

34.04.030 Emergency rules and amendments. (1) If the agency finds that immediate adoption or amendment of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to the public interest, the agency may dispense with such requirements and adopt the rule or amendment as an emergency rule or amendment. The agency's finding and a brief statement of the reasons for its finding shall be incorporated in the emergency rule or amendment as filed with the office of the code reviser under RCW 34.04.040. An emergency rule or amendment shall not remain in effect for longer than ninety days after filing. This section does not relieve any agency from compliance with any law requiring that its rules be approved by designated persons or bodies before they become effective.

(2) The emergency rule published in the register is solely to inform the public of its adoption, and nothing in this section shall be construed to prevent the implementation of the rule upon its filing with the code reviser in accordance with RCW 34.04.040(2). [1977 1st ex.s. c 240 § 8; 1959 c 234 § 3.]

Effective date—1977 1st ex.s. c 240: See note following RCW 34.08.010.

Severability—1977 1st ex.s. c 240: See RCW 34.08.910.

34.04.045 Statement of rule's purpose and how implemented—Contents—Distribution by agency.

(1) For the purpose of legislative review of agency rules filed pursuant to this chapter, any new or amendatory rule promulgated after September 21, 1977, shall be accompanied by a statement prepared by the adopting agency which generally describes the rule's purpose and how the rule is to be implemented. Such statement shall contain, but is not limited to, the following:

(a) A title, containing a description of the rule's purpose, the name of the agency, the statutory authority for the rule, and any other information which may be of assistance in identifying the rule or its purpose;

- (b) A summary of the rule;
- (c) The agency personnel, with their office location and telephone number, who are responsible for the drafting, implementation, and enforcement of the rule;
- (d) The names of the proponents and opponents of the rule, if any; and
- (e) Agency comments or recommendations, if any, regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule.

(2) Upon filing the rule with the code reviser, the adopting agency shall have copies of the statement on file and available for public inspection and shall forward three copies each of the statement to the secretary of the senate and the chief clerk of the house of representatives, who will in turn forward the statement to the majority and minority caucuses and to the appropriate legislative committees. [1977 1st ex.s. c 84 § 1.]

34.04.050 Code reviser to compile rules, publish register—Distribution—County law library trustees to maintain set—Judicial notice of rules. (1) The code reviser shall, as soon as practicable after the effective date of this chapter, compile and index all rules adopted by each agency and remaining in effect. Compilations shall be supplemented or revised as often as necessary and at least once every two years.

(2) The code reviser shall publish a monthly register in which he shall set forth the text of all rules filed during the preceding month excluding rules in effect upon the adoption of this chapter.

(3) The code reviser may, in his discretion, omit from the register or the compilation, rules, the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if such rules are made available in printed or processed form on application to the adopting agency, and if such register or compilation contains a notice stating the general subject matter of the rules so omitted and stating how copies thereof may be obtained.

(4) Registers and compilations shall be made available, in written form to state elected officials whose offices are created by Article II or III of the state Constitution or by RCW 48.02.010, upon request, to county boards of law library trustees, and to the Olympia representatives of the Associated Press and the United Press International without request, free of charge, and to other persons at a price fixed by the code reviser.

(5) The board of law library trustees of each county shall keep and maintain a complete and current set of registers and compilations for use and inspection as provided in RCW 27.24.060.

(6) Judicial notice shall be taken of rules filed and published as provided in RCW 34.04.040 and this section. [1977 1st ex.s. c 240 § 9; 1959 c 234 § 5.]

Effective date—1977 1st ex.s. c 240: See note following RCW 34.08.010.

Severability—1977 1st ex.s. c 240: See RCW 34.08.910.

34.04.058 Format and style of rules amending existing sections, adding new sections—Effect of failure to comply. (1) Rules promulgated by an agency pursuant to RCW 34.04.025 or 34.04.030 which amend existing sections of the administrative code shall have

the words which are amendatory to such existing sections underlined. Any matter to be deleted from an existing section shall be indicated by setting such matter forth in full, enclosed by double parentheses, and such deleted matter shall be lined out with hyphens. In the case of a new section, such shall be designated "NEW SECTION" in upper case type and such designation shall be underlined, but the complete text of the section shall not be underlined. No rule shall be forwarded by any agency to the code reviser, nor shall the code reviser accept for filing any rule unless the format of such rule is in compliance with the provisions of this section.

(2) Once the rule has been formally adopted by the agency the code reviser need not, except with regard to the *bulletin published pursuant to RCW 34.04.050(2), include the items enumerated in subsection (1) of this section in the official code.

(3) Any addition to or deletion from an existing code section not filed by the agency in the style prescribed by subsection (1) of this section shall in all respects be ineffectual, and shall not be shown in subsequent publications or codifications of that section. [1977 c 19 § 1.]

***Reviser's note:** The "bulletin" has been replaced by the "state register" pursuant to 1977 1st ex.s. c 240. See chapter 34.08 RCW.

34.04.130 Contested cases—Judicial review. (1) Any person aggrieved by a final decision in a contested case, whether such decision is affirmative or negative in form, is entitled to judicial review thereof only under the provisions of *this 1967 amendatory act, and such person may not use any other procedure to obtain judicial review of a final decision, even though another procedure is provided elsewhere by a special statute or a statute of general application. Where the agency's rules provide a procedure for rehearing or reconsideration, and that procedure has been invoked, the agency decision shall not be final until the agency shall have acted thereon.

(2) Proceedings for review under this chapter shall be instituted by filing a petition in the superior court, at the petitioner's option, for (a) Thurston county, (b) the county of the petitioner's residence or principal place of business, or (c) in any county where the property owned by the petitioner and affected by the contested decision is located. The petition shall be served and filed within thirty days after the service of the final decision of the agency. Copies of the petition shall be served upon the agency and all parties of record. If a timely petition is filed any party of record not filing or joining in the first petition who wants relief from the decision must join in the petition or serve and file a cross-petition within twenty days after service of the first petition or thirty days after service of the final decision of the agency, whichever period of time is longer. The court, in its discretion, may permit other interested persons to intervene.

(3) The filing of the petition shall not stay enforcement of the agency decision. Where other statutes provide for stay or supersedeas of an agency decision, it may be stayed by the agency or the reviewing court only as provided therein; otherwise the agency may do so, or

the reviewing court may order a stay upon such terms as it deems proper.

(4) Within thirty days after service of the petition, or within such further time as the court may allow, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review; but, by stipulation of all parties to the review proceeding, the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

(5) The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the agency, not shown in the record, testimony thereon may be taken in the court. The court shall, upon request, hear oral argument and receive written briefs.

(6) The court may affirm the decision of the agency or remand the case for further proceedings; or it may reverse the decision if the substantial rights of the petitioners may have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) in violation of constitutional provisions; or
- (b) in excess of the statutory authority or jurisdiction of the agency; or
- (c) made upon unlawful procedure; or
- (d) affected by other error of law; or
- (e) clearly erroneous in view of the entire record as submitted and the public policy contained in the act of the legislature authorizing the decision or order; or
- (f) arbitrary or capricious. [1977 1st ex.s. c 52 § 1; 1967 c 237 § 6; 1959 c 234 § 13.]

***Reviser's note:** "this 1967 amendatory act" [1967 c 237] is codified as RCW 34.04.010, 34.04.020, 34.04.022, 34.04.025, 34.04.027, 34.04.055, 34.04.057, 34.04.060, 34.04.090, 34.04.105, 34.04.115, 34.04.130, 34.04.150, 34.04.170, 34.04.901, 34.04.910, 34.04.921, 34.04.931, 34.04.940, 48.03.070, 48.04.010, 48.04.040, 48.04.090, 48.52.060, 66.08.150, and 82.32.130. Section 7, chapter 237, Laws of 1967 (RCW 34.04.150) was later amended, and sections 21 and 22, chapter 237, Laws of 1967 (uncodified) were repealed, by chapter 71, Laws of 1967 extraordinary session.

Chapter 34.08

WASHINGTON STATE REGISTER ACT OF 1977 (EFFECTIVE JANUARY 1, 1978)

Sections	
34.08.010	Legislative finding.
34.08.020	Washington State Register created—Publication period—Contents.
34.08.030	Preparation and transmittal of material by agencies to code reviser—Rules regarding.
34.08.040	Publication in register deemed official notice—Certification of material.
34.08.050	Institutions of higher education considered state agencies for certain purposes.
34.08.900	Short title.
34.08.910	Severability—1977 1st ex.s. c 240.

34.08.010 Legislative finding. The legislature finds that a need exists to adequately inform the public on the conduct of the people's business by state government,

and that providing adequate notice of the affairs of government enables the public to actively participate in the conduct of state government. The legislature further finds that the promulgation of rules by state agencies has a direct effect on the ability of the people to conduct their personal affairs and knowledgeably deal with state government. It is therefore the intent and purpose of RCW 1.08.110 and 42.30.075 and of this chapter to require the publication of a state register by which the public will be adequately informed of the activities of government and where they may actively participate in the conduct of state government and influence the decision making process of the people's business. [1977 1st ex.s. c 240 § 1.]

Effective date—1977 1st ex.s. c 240: "This 1977 amendatory act shall take effect January 1, 1978." [1977 1st ex.s. c 240 § 16.]

For contents of "This 1977 amendatory act" see note following RCW 34.08.900.

34.08.020 Washington State Register created—Publication period—Contents. There is hereby created a state publication to be called the Washington State Register, which shall be published on a monthly basis. The register shall contain, but is not limited to, the following materials received by the code reviser's office during the pertinent publication period:

(1) The full text of any proposed new or amendatory rule, as defined in RCW 34.04.010, and the citation of any existing rules the repeal of which is proposed, prior to the public hearing on such proposal. Such material shall be considered, when published, to be the official notification of the intended action, and no state agency or official thereof shall take action on any such rule except on emergency rules adopted in accordance with RCW 34.04.030, until twenty days have passed since the distribution date of the register in which the rule and hearing notice have been published or a notice regarding the omission of the rule has been published pursuant to RCW 34.04.050(3) as now or hereafter amended;

(2) The full text of any new or amendatory rule adopted, and the citation of any existing rule repealed, on a permanent or emergency basis;

(3) Executive orders and emergency declarations of the governor;

(4) Public meeting notices of any and all agencies of state government, including state elected officials whose offices are created by Article III of the state Constitution or RCW 48.02.010; and

(5) Rules of the state supreme court which have been adopted but not yet published in an official permanent codification. [1977 1st ex.s. c 240 § 3.]

Schedule of regular meetings of state agencies: RCW 42.30.075.

34.08.030 Preparation and transmittal of material by agencies to code reviser—Rules regarding. All material included in the register pursuant to RCW 34.08.020 shall be prepared by the appropriate agency or official and transmitted to the code reviser in accordance with rules adopted by the code reviser prescribing the style, format, and numbering system therefor, the date of receipt for inclusion within a particular register, and such other requirements as may be necessary for the

orderly and efficient publication of the register and the Washington Administrative Code. [1977 1st ex.s. c 240 § 4.]

34.08.040 Publication in register deemed official notice—Certification of material. The publication of any information in the Washington State Register shall be deemed to be official notice of such information, and publication in the register of such information and materials shall be certified to be the true and correct copy of such rules or other information as filed in the code reviser's office. The code reviser shall certify, to any court of record, the publication of any notice or information, and attached to such certification shall be the agency's declaration of compliance with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and this chapter. [1977 1st ex.s. c 240 § 5.]

34.08.050 Institutions of higher education considered state agencies for certain purposes. For the purposes of the state register and this chapter, an institution of higher education, as defined in RCW 28B.19.020(1), shall be considered to be a state agency. [1977 1st ex.s. c 240 § 6.]

34.08.900 Short title. *This 1977 amendatory act may be known as the Washington State Register Act of 1977. [1977 1st ex.s. c 240 § 15.]

***Reviser's note:** "This 1977 amendatory act" consisted of the enactment of RCW 1.08.110, 34.08.010 through 34.08.050, 34.08.900, 34.08.910, and 42.30.075 and the amendment of RCW 28B.19.030, 28B.19.040, 34.04.025, 34.04.030, and 34.04.050 by 1977 1st ex.s. c 240.

34.08.910 Severability—1977 1st ex.s. c 240. If any provision of *this 1977 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. [1977 1st ex.s. c 240 § 17.]

***Reviser's note:** "this 1977 amendatory act" see note following RCW 34.08.900.

Title 35 CITIES AND TOWNS

Chapters

- 35.04 Incorporation of intercounty areas.
- 35.20 Municipal courts—Cities over four hundred thousand.
- 35.21 Miscellaneous provisions affecting all cities and towns.
- 35.22 First class cities.
- 35.23 Second class cities.
- 35.24 Third class cities.
- 35.27 Towns.

- 35.43 Local improvements—Authority—Initiation of proceedings.
- 35.58 Metropolitan municipal corporations.
- 35.63 Planning commissions.
- 35.68 Sidewalks, gutters, curbs, and driveways—All cities and towns.
- 35.77 Streets—Planning, establishment, construction, and maintenance.
- 35.82 Housing authorities law.
- 35.92 Municipal utilities.

Transportation centers authorized: Chapter 81.75 RCW.

Chapter 35.04

INCORPORATION OF INTERCOUNTY AREAS

Sections

- 35.04.070 Determining population.

35.04.070 Determining population. For the purpose of the type of incorporation provided for in this chapter, the population shall be determined as follows:

A count shall be made by the legislative authority of each county in which a portion of the proposed corporation is located to determine the population and number of housing units in that area at the time of the incorporation. The count shall be made under the direction of, and certified by, the office of program planning and fiscal management. The population so determined shall constitute the official population of the proposed corporation and subtracted from the official population of the unincorporated area of each of the counties in which the proposed corporation is located. [1977 1st ex.s. c 110 § 5; 1965 c 7 § 35.04.070. Prior: 1955 c 345 § 7.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Chapter 35.20

MUNICIPAL COURTS—CITIES OVER FOUR HUNDRED THOUSAND

(Formerly: Municipal Courts—Cities over five hundred thousand)

Sections

- 35.20.090 Trial by jury—Juror's fees (as amended by 1977 1st ex.s. c 53).
- 35.20.090 Trial by jury—Juror's fees (as amended by 1977 1st ex.s. c 248).
- 35.20.270 Warrant servers—Position created—Authority—Service of criminal and civil process—Execution—Jurisdiction—Costs when process served or defendant arrested outside city.

35.20.090 Trial by jury—Juror's fees (as amended by 1977 1st ex.s. c 53). In all civil cases and criminal cases where jurisdiction is concurrent with justices of the peace as provided in RCW 35.20.250, within the jurisdiction of the municipal court, the plaintiff or defendant may demand a jury, which shall consist of six citizens of the state who shall be impaneled and sworn as in cases before justices of the peace, or the trial may be by a judge of the municipal court. A defendant requesting a jury shall pay to the court a fee which shall be the same as that for a jury in justice court. Where there is more than one defendant in an action and one or more of them requests a jury, only one jury fee shall be collected by the court. Each juror shall receive five dollars for each day in attendance upon the municipal court, and in addition thereto shall receive mileage as provided by law.

Trial by jury shall be allowed in criminal cases involving violations of city ordinances commencing January 1, 1972 unless such incorporated city affected by this chapter has made provision therefor prior to January 1, 1972. [1977 1st ex.s. c 53 § 3; 1969 ex.s. c 147 § 8; 1965 c 7 § 35.20.090. Prior: 1955 c 290 § 9.]

35.20.090 Trial by jury—Juror's fees (as amended by 1977 1st ex.s. c 248). In all civil cases and criminal cases where jurisdiction is concurrent with district courts as provided in RCW 35.20.250, within the jurisdiction of the municipal court, the plaintiff or defendant may demand a jury, which shall consist of six citizens of the state who shall be impaneled and sworn as in cases before district courts, or the trial may be by a judge of the municipal court. A defendant requesting a jury shall pay to the court a fee which shall be the same as that for a jury in justice court. Where there is more than one defendant in an action and one or more of them requests a jury, only one jury fee shall be collected by the court. Each juror shall receive five dollars for each day in attendance upon the municipal court, and in addition thereto shall receive mileage as provided by law. Trial by jury shall be allowed in criminal cases involving violations of city ordinances commencing January 1, 1972 unless such incorporated city affected by this chapter has made provision therefor prior to January 1, 1972. [1977 1st ex.s. c 248 § 3; 1969 ex.s. c 147 § 8; 1965 c 7 § 35.20.090. Prior: 1955 c 290 § 9.]

Reviser's note: RCW 35.20.090 was amended twice during the 1977 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Rights of accused: State Constitution Art. 1 § 22 (Amendment 10).

35.20.270 Warrant servers—Position created—Authority—Service of criminal and civil process—Execution—Jurisdiction—Costs when process served or defendant arrested outside city. (1) The position of warrant server is hereby created within the courts created by chapter 35.20 RCW. The number and qualifications of said warrant servers shall be fixed by ordinance, and their compensation shall be paid by the city.

(2) Said warrant servers shall be vested only with the special authority to make arrests authorized by the warrants which they have been directed to serve by courts created by chapter 35.20 RCW.

(3) All criminal and civil process issuing out of courts created under this title shall be directed to the chief of police of the city served by the court and/or to the sheriff of the county in which the court is held and/or the warrant servers of the court and be by them executed according to law in any county of this state.

(4) No process of courts created under this title shall be executed outside the corporate limits of the city served by the court unless the person authorized by said process shall first contact the applicable law enforcement agency in whose jurisdiction the process is to be served.

(5) Upon a defendant being arrested in another city or county the cost of arresting or serving process thereon shall be borne by the court issuing said process including the cost of returning the defendant from any county of the state to the city.

(6) Said warrant servers shall not be entitled to death, disability or retirement benefits pursuant to chapter 41.26 RCW on the basis of service as a warrant server as described in this section. [1977 1st ex.s. c 108 § 1.]

Chapter 35.21

MISCELLANEOUS PROVISIONS AFFECTING ALL CITIES AND TOWNS

Sections

35.21.152	Solid waste—Collection and disposal—Processing and conversion into products—Sale agreements—Advertising—Bids.
35.21.260	Streets—Annual report to secretary of transportation.
35.21.330	Holding, detention and correctional facilities, authorized.
35.21.755	Federal grants and programs—Public corporations, commissions or authorities—Exemption or immunity from taxation—In lieu excise tax.
35.21.800	Foreign trade zones—Legislative finding, intent.
35.21.805	Foreign trade zones—Authority to apply for permission to establish, operate and maintain.

35.21.152 Solid waste—Collection and disposal—Processing and conversion into products—Sale agreements—Advertising—Bids. A city or town may construct, condemn, purchase, acquire, add to, and extend systems and plants for the collection and disposal of solid waste and for its processing and conversion into other valuable or useful products with full jurisdiction and authority to manage, regulate, maintain, operate and control such systems and plants, and to enter into agreements providing for the maintenance and operation of systems and plants for the processing and conversion of solid waste and for the sale of said products under such terms and conditions as may be determined by the legislative authority of said city or town: *Provided however*, That no such solid waste processing and conversion plant now in existence or hereafter constructed may be condemned: *Provided further*, That agreements relating to the sale of solid materials recovered during the processing of solid waste shall take place only after the receipt of competitive written bids by such city or town: *And provided further*, That all documentary material of any nature associated with the negotiation and formulation of agreement terms and conditions shall become matters of public record as it applies to:

(a) The maintenance and operation of systems and plants for the processing and conversion of solid waste;

(b) The sale of products resulting from such processing and conversion; and

(c) Any materials recovered during the processing of solid waste.

Agreements relating to systems and plants for the processing and conversion of solid wastes to useful products and agreements relating to sale of such products shall be in compliance with RCW 35.21.120. Any agreement for the sale of solid materials recovered during the processing of solid waste shall be entered into only after public advertisement and evaluation of competitive written bids. [1977 1st ex.s. c 164 § 1; 1975 1st ex.s. c 208 § 1.]

35.21.260 Streets—Annual report to secretary of transportation. The governing authority of each city and town on or before March 31st of each year shall submit such records and reports regarding street operations therein to the director of highways on forms furnished by him as are necessary to enable him to compile an

annual report thereon. [1977 c 75 § 29; 1965 c 7 § 35.21.260. Prior: 1943 c 82 § 12; 1937 c 187 § 64; Rem. Supp. 1943 § 6450-64.]

Reviser's note: Powers, duties, and functions of "director of highways" transferred to department of transportation; see RCW 47.01.031. Term "director of highways" means secretary of transportation; see RCW 47.04.015.

35.21.330 Holding, detention and correctional facilities, authorized. Cities and towns may acquire, build, operate and maintain holding, detention and correctional facilities as defined in RCW 70.48.020 at any place within the territorial limits of the county in which the city or town is situated, as may be selected by the legislative authority of the municipality: *Provided*, That such facilities comply with the provisions of chapter 70.48 RCW and rules adopted thereto. [1977 1st ex.s. c 316 § 19; 1965 c 7 § 35.21.330. Prior: 1917 c 103 § 1; RRS § 10204.]

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

35.21.755 Federal grants and programs—Public corporations, commissions or authorities—Exemption or immunity from taxation—In lieu excise tax. A public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660 shall receive the same immunity or exemption from taxation as that of the city, town, or county creating the same: *Provided*, That, except for any property listed on, or which is within a district listed on any federal or state register of historical sites, any such public corporation, commission, or authority shall pay to the county treasurer an annual excise tax equal to the amounts which would be paid upon real property and personal property devoted to the purposes of such public corporation, commission, or authority were it in private ownership, and such real property and personal property is acquired and/or operated under RCW 35.21.725 through 35.21.755, and the proceeds of such excise tax shall be allocated by the county treasurer to the various taxing authorities in which such property is situated, in the same manner as though the property were in private ownership: *Provided further*, That the provisions of chapter 82.29A RCW, and RCW 84.36.451 and 84.40.175 shall not apply to property within a district listed on any federal or state register of historical sites and which is controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660, which was in existence prior to January 1, 1976, and the exemption set forth in this proviso shall be allowed in accordance with the following schedule:

Year	Percentage Exemption of Tax Otherwise Due
1977 to 1981	100 percent
1982 to 1985	66 2/3 percent
1986 to 1989	33 1/3 percent

and shall expire on December 31, 1989. [1977 1st ex.s. c 35 § 1; 1974 ex.s. c 37 § 7.]

Effective date—1977 1st ex.s. c 35: "This 1977 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, 1977." [1977 1st ex.s. c 35 § 2.]

35.21.800 Foreign trade zones—Legislative finding, intent. It is the finding of the legislature that foreign trade zones serve an important public purpose by the creation of employment opportunities within the state and that the establishment of zones designed to accomplish this purpose is to be encouraged. It is the further intent of the legislature that the department of commerce and economic development provide assistance to entities planning to apply to the United States for permission to establish such zones. [1977 1st ex.s. c 196 § 3.]

Effective date—1977 1st ex.s. c 196: See note following RCW 24.46.010.

35.21.805 Foreign trade zones—Authority to apply for permission to establish, operate and maintain. A city or town, as zone sponsor, may apply to the United States for permission to establish, operate, and maintain foreign trade zones: *Provided*, That nothing herein shall be construed to prevent these zones from being operated and financed by a private corporation(s) on behalf of a city or town acting as zone sponsor. [1977 1st ex.s. c 196 § 4.]

Effective date—1977 1st ex.s. c 196: See note following RCW 24.46.010.

Chapter 35.22 FIRST CLASS CITIES

Sections
35.22.280 Specific powers enumerated.

35.22.280 Specific powers enumerated. Any city of the first class shall have power:

- (1) To provide for general and special elections, for questions to be voted upon, and for the election of officers;
- (2) To provide for levying and collecting taxes on real and personal property for its corporate uses and purposes, and to provide for the payment of the debts and expenses of the corporation;
- (3) To control the finances and property of the corporation, and to acquire, by purchase or otherwise, such lands and other property as may be necessary for any part of the corporate uses provided for by its charter, and to dispose of any such property as the interests of the corporation may, from time to time, require;
- (4) To borrow money for corporate purposes on the credit of the corporation, and to issue negotiable bonds therefor, on such conditions and in such manner as shall be prescribed in its charter; but no city shall, in any manner or for any purpose, become indebted to an amount in the aggregate to exceed the limitation of indebtedness prescribed by chapter 39.36 RCW as now or hereafter amended;
- (5) To issue bonds in place of or to supply means to meet maturing bonds or other indebtedness, or for the consolidation or funding of the same;

(6) To purchase or appropriate private property within or without its corporate limits, for its corporate uses, upon making just compensation to the owners thereof, and to institute and maintain such proceedings as may be authorized by the general laws of the state for the appropriation of private property for public use;

(7) To lay out, establish, open, alter, widen, extend, grade, pave, plank, establish grades, or otherwise improve streets, alleys, avenues, sidewalks, wharves, parks, and other public grounds, and to regulate and control the use thereof, and to vacate the same, and to authorize or prohibit the use of electricity at, in, or upon any of said streets, or for other purposes, and to prescribe the terms and conditions upon which the same may be so used, and to regulate the use thereof;

(8) To change the grade of any street, highway, or alley within its corporate limits, and to provide for the payment of damages to any abutting owner or owners who shall have built or made other improvements upon such street, highway, or alley at any point opposite to the point where such change shall be made with reference to the grade of such street, highway, or alley as the same existed prior to such change;

(9) To authorize or prohibit the locating and constructing of any railroad or street railroad in any street, alley, or public place in such city, and to prescribe the terms and conditions upon which any such railroad or street railroad shall be located or constructed; to provide for the alteration, change of grade, or removal thereof; to regulate the moving and operation of railroad and street railroad trains, cars, and locomotives within the corporate limits of said city; and to provide by ordinance for the protection of all persons and property against injury in the use of such railroads or street railroads;

(10) To provide for making local improvements, and to levy and collect special assessments on property benefited thereby, and for paying for the same or any portion thereof;

(11) To acquire, by purchase or otherwise, lands for public parks within or without the limits of such city, and to improve the same. When the language of any instrument by which any property is so acquired limits the use of said property to park purposes and contains a reservation of interest in favor of the grantor or any other person, and where it is found that the property so acquired is not needed for park purposes and that an exchange thereof for other property to be dedicated for park purposes is in the public interest, the city may, with the consent of the grantor or such other person, his heirs, successors, or assigns, exchange such property for other property to be dedicated for park purposes, and may make, execute, and deliver proper conveyances to effect the exchange. In any case where, owing to death or lapse of time, there is neither donor, heir, successor, or assignee to give consent, this consent may be executed by the city and filed for record with an affidavit setting forth all efforts made to locate people entitled to give such consent together with the facts which establish that no consent by such persons is attainable. Title to property so conveyed by the city shall vest in the grantee free and clear of any trust in favor of the public arising out

of any prior dedication for park purposes, but the right of the public shall be transferred and preserved with like force and effect to the property received by the city in such exchange;

(12) To construct and keep in repair bridges, viaducts, and tunnels, and to regulate the use thereof;

(13) To determine what work shall be done or improvements made at the expense, in whole or in part, of the owners of the adjoining contiguous, or proximate property, or others specially benefited thereby; and to provide for the manner of making and collecting assessments therefor;

(14) To provide for erecting, purchasing, or otherwise acquiring waterworks, within or without the corporate limits of said city, to supply said city and its inhabitants with water, or authorize the construction of same by others when deemed for the best interests of such city and its inhabitants, and to regulate and control the use and price of the water so supplied;

(15) To provide for lighting the streets and all public places, and for furnishing the inhabitants thereof with gas or other lights, and to erect, or otherwise acquire, and to maintain the same, or to authorize the erection and maintenance of such works as may be necessary and convenient therefor, and to regulate and control the use thereof;

(16) To establish and regulate markets, and to provide for the weighing, measuring, and inspection of all articles of food and drink offered for sale thereat, or at any other place within its limits, by proper penalties, and to enforce the keeping of proper legal weights and measures by all vendors in such city, and to provide for the inspection thereof;

(17) To erect and establish hospitals and pesthouses, and to control and regulate the same;

(18) To provide for establishing and maintaining reform schools for juvenile offenders;

(19) To provide for the establishment and maintenance of public libraries, and to appropriate, annually, such percent of all moneys collected for fines, penalties, and licenses as shall be prescribed by its charter, for the support of a city library, which shall, under such regulations as shall be prescribed by ordinance, be open for use by the public;

(20) To regulate the burial of the dead, and to establish and regulate cemeteries within or without the corporate limits, and to acquire land therefor by purchase or otherwise; to cause cemeteries to be removed beyond the limits of the corporation, and to prohibit their establishment within two miles of the boundaries thereof;

(21) To direct the location and construction of all buildings in which any trade or occupation offensive to the senses or deleterious to public health or safety shall be carried on, and to regulate the management thereof; and to prohibit the erection or maintenance of such buildings or structures, or the carrying on of such trade or occupation within the limits of such corporation, or within the distance of two miles beyond the boundaries thereof;

(22) To provide for the prevention and extinguishment of fires and to regulate or prohibit the transportation,

keeping, or storage of all combustible or explosive materials within its corporate limits, and to regulate and restrain the use of fireworks;

(23) To establish fire limits and to make all such regulations for the erection and maintenance of buildings or other structures within its corporate limits as the safety of persons or property may require, and to cause all such buildings and places as may from any cause be in a dangerous state to be put in safe condition;

(24) To regulate the manner in which stone, brick, and other buildings, party walls, and partition fences shall be constructed and maintained;

(25) To deepen, widen, dock, cover, wall, alter, or change the channels of waterways and courses, and to provide for the construction and maintenance of all such works as may be required for the accommodation of commerce, including canals, slips, public landing places, wharves, docks, and levees, and to control and regulate the use thereof;

(26) To control, regulate, or prohibit the anchorage, moorage, and landing of all watercrafts and their cargoes within the jurisdiction of the corporation;

(27) To fix the rates of wharfage and dockage, and to provide for the collection thereof, and to provide for the imposition and collection of such harbor fees as may be consistent with the laws of the United States;

(28) To license, regulate, control, or restrain wharf boats, tugs, and other boats used about the harbor or within such jurisdiction;

(29) To require the owners of public halls or other buildings to provide suitable means of exit; to provide for the prevention and abatement of nuisances, for the cleaning and purification of watercourses and canals, for the drainage and filling up of ponds on private property within its limits, when the same shall be offensive to the senses or dangerous to health; to regulate and control, and to prevent and punish, the defilement or pollution of all streams running through or into its corporate limits, and for the distance of five miles beyond its corporate limits, and on any stream or lake from which the water supply of said city is taken, for a distance of five miles beyond its source of supply; to provide for the cleaning of areas, vaults, and other places within its corporate limits which may be so kept as to become offensive to the senses or dangerous to health, and to make all such quarantine or other regulations as may be necessary for the preservation of the public health, and to remove all persons afflicted with any infectious or contagious disease to some suitable place to be provided for that purpose;

(30) To declare what shall be a nuisance, and to abate the same, and to impose fines upon parties who may create, continue, or suffer nuisances to exist;

(31) To regulate the selling or giving away of intoxicating, malt, vinous, mixed, or fermented liquors as authorized by the general laws of the state: *Provided*, That no license shall be granted to any person or persons who shall not first comply with the general laws of the state in force at the time the same is granted;

(32) To grant licenses for any lawful purpose, and to fix by ordinance the amount to be paid therefor, and to provide for revoking the same: *Provided*, That no license

shall be granted to continue for longer than one year from the date thereof;

(33) To regulate the carrying on within its corporate limits of all occupations which are of such a nature as to affect the public health or the good order of said city, or to disturb the public peace, and which are not prohibited by law, and to provide for the punishment of all persons violating such regulations, and of all persons who knowingly permit the same to be violated in any building or upon any premises owned or controlled by them;

(34) To restrain and provide for the punishment of vagrants, mendicants, prostitutes, and other disorderly persons;

(35) To provide for the punishment of all disorderly conduct, and of all practices dangerous to public health or safety, and to make all regulations necessary for the preservation of public morality, health, peace, and good order within its limits, and to provide for the arrest, trial, and punishment of all persons charged with violating any of the ordinances of said city. The punishment shall not exceed a fine of five hundred dollars or imprisonment in the city jail for six months, or both such fine and imprisonment;

(36) To project or extend its streets over and across any tidelands within its corporate limits, and along or across the harbor areas of such city, in such manner as will best promote the interests of commerce;

(37) To provide in their respective charters for a method to propose and adopt amendments thereto. [1977 1st ex.s. c 316 § 20; 1971 ex.s. c 16 § 1; 1965 ex.s. c 116 § 2; 1965 c 7 § 35.22.280. Prior: 1890 p 218 § 5; RRS § 8966.]

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

Chapter 35.23

SECOND CLASS CITIES

Sections

- | | |
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| 35.23.352 | Contracts, purchases, advertising—Call for bids—Exceptions. |
| 35.23.440 | Specific powers enumerated. |

35.23.352 Contracts, purchases, advertising—Call for bids—Exceptions. Any city or town of the second, third or fourth class may construct any public work or improvement by contract or day labor without calling for bids therefor whenever the estimated cost of such work or improvement, including cost of materials, supplies and equipment will not exceed the sum of five thousand dollars. Whenever the cost of such public work or improvement, including materials, supplies and equipment, will exceed five thousand dollars, the same shall be done by contract. All such contracts shall be let at public bidding upon posting notice calling for sealed bids upon the work. Such notice thereof shall be posted in a public place in the city or town and by publication in the official newspaper once each week for two consecutive weeks before the date fixed for opening the bids. The notice shall generally state the nature of the work to be done that plans and specifications therefor shall then be on file in the city hall for public inspections, and

require that bids be sealed and filed with the council or commission within the time specified therein. Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal deposit. If there is no official newspaper the notice shall be published in a newspaper published or of general circulation in the city or town. The city council or commission of the city or town shall let the contract to the lowest responsible bidder or shall have power by resolution to reject any or all bids and to make further calls for bids in the same manner as the original call. When the contract is let then all bid proposal deposits shall be returned to the bidders except that of the successful bidder which shall be retained until a contract is entered into and a bond to perform the work furnished, with surety satisfactory to the council or commission, in the full amount of the contract price. If the bidder fails to enter into the contract in accordance with his bid and furnish such bond within ten days from the date at which he is notified that he is the successful bidder, the check or postal money order and the amount thereof shall be forfeited to the council or commission or the council or commission shall recover the amount of the surety bond. If no bid is received on the first call the city council or commission may readvertise and make a second call, or may enter into a contract without any further call or may purchase the supplies, material or equipment and perform such work or improvement by day labor.

Any purchase of supplies, material, equipment or services other than professional services, except for public work or improvement, where the cost thereof exceeds two thousand dollars shall be made upon call for bids in the same method and under the same conditions as required herein on a call for bids for public work or improvement.

Bids shall be called annually and at a time and in the manner prescribed by ordinance for the publication in a newspaper published or of general circulation in the city or town of all notices or newspaper publications required by law. The contract shall be awarded to the lowest responsible bidder. [1977 1st ex.s. c 41 § 1; 1974 ex.s. c 74 § 2; 1965 c 114 § 1; 1965 c 7 § 35.23.352. Prior: 1957 c 121 § 1; 1951 c 211 § 1; prior: (i) 1907 c 241 § 52; RRS § 9055. (ii) 1915 c 184 § 31; RRS § 9145. (iii) 1947 c 151 § 1; 1890 p 209 § 166; Rem. Supp. 1947 § 9185.]

Competitive bidding violations by municipal officer, penalties: RCW 39.30.020.

35.23.440 Specific powers enumerated. The city council of each second class city shall have power and authority:

(1) Ordinances: To make and pass all ordinances, orders and resolutions not repugnant to the Constitution of the United States or the state of Washington, or the provisions of this title, necessary for the municipal government and management of the affairs of the city, for

the execution of the powers vested in said body corporate, and for the carrying into effect of the provisions of this title.

(2) License of shows: To fix and collect a license tax, for the purposes of revenue and regulation, on theatres, melodeons, balls, concerts, dances, theatrical, circus or other performances, and all performances where an admission fee is charged, or which may be held in any house or place where wines or liquors are sold to the participators; also all shows, billiard tables, pool tables, bowling alleys, exhibitions, or amusements.

(3) Hotels, etc., licenses: To fix and collect a license tax for the purposes of revenue and regulation on and to regulate all taverns, hotels, restaurants, banks, brokers, manufactories, livery stables, express companies and persons engaged in transmitting letters or packages, railroad, stage and steamboat companies or owners, whose principal place of business is in such city, or who have an agency therein.

(4) Auctioneers' licenses: To license and regulate auctioneers for the purposes of revenue and regulation.

(5) Peddlers', etc., licenses: To license, for the purposes of revenue and regulation, tax, prohibit, suppress and regulate all raffles, hawkers, peddlers, pawnbrokers, refreshment or coffee stands, booths or sheds; and to regulate as authorized by state law all tipping houses, dram shops, saloons, bars and barrooms.

(6) Dance houses: To prohibit or suppress, or to license and regulate all dance houses, fandango houses, or any exhibition or show of any animal or animals.

(7) License vehicles: To license for the purposes of revenue and regulation, and to tax hackney coaches, cabs, omnibuses, drays, market wagons, and all other vehicles used for hire, and to regulate their stands, and to fix the rates to be charged for the transportation of persons, baggage and property.

(8) Hotel runners: To license or suppress runners for steamboats, taverns, or hotels.

(9) License generally: To fix and collect a license tax for the purposes of revenue and regulation, upon all occupations and trades, and all and every kind of business authorized by law not heretofore specified: *Provided*, That on any business, trade, or calling not provided by law to be licensed for state and county purposes, the amount of license shall be fixed at the discretion of the city council, as they may deem the interests and good order of the city may require.

(10) Riots: To prevent and restrain any riot or riotous assemblages, disturbance of the peace or disorderly conduct in any place, house or street in the city.

(11) Nuisances: To declare what shall be deemed nuisances; to prevent, remove and abate nuisances at the expense of the parties creating, causing or committing or maintaining the same, and to levy a special assessment on the land or premises whereon the nuisance is situated to defray the cost or to reimburse the city for the cost of abating the same.

(12) Stock pound: To establish, maintain and regulate a common pound for estrays, and to appoint a pound-keeper, who shall be paid out of the fines and fees imposed and collected of the owners of any animals impounded, and from no other source; to prevent and

regulate the running at large of any and all domestic animals within the city limits or any parts thereof, and to regulate or prevent the keeping of such animals within any part of the city.

(13) Control of certain trades: To control and regulate slaughterhouses, washhouses, laundries, tanneries, forges and offensive trades, and to provide for their exclusion or removal from the city limits, or from any part thereof.

(14) Street cleaning: To provide, by regulation, for the prevention and summary removal of all filth and garbage in streets, sloughs, alleys, back yards or public grounds of such city, or elsewhere therein.

(15) Gambling, etc.: To prohibit and suppress all gaming and all gambling or disorderly houses, and houses of ill fame, and all immoral and indecent amusements, exhibitions and shows.

(16) Markets: To establish and regulate markets and market places.

(17) Speed of railroad cars: To fix and regulate the speed at which any railroad cars, streetcars, automobiles or other vehicles may run within the city limits, or any portion thereof.

(18) City commons: To provide for and regulate the commons of the city.

(19) Fast driving: To regulate or prohibit fast driving or riding in any portion of the city.

(20) Combustibles: To regulate or prohibit the loading or storage of gunpowder and combustible or explosive materials in the city, or transporting the same through its streets or over its waters.

(21) Property: To have, purchase, hold, use and enjoy property of every name or kind whatsoever, and to sell, lease, transfer, mortgage, convey, control or improve the same; to build, erect or construct houses, buildings or structures of any kind needful for the use or purposes of such city.

(22) Fire department: To establish, continue, regulate and maintain a fire department for such city, to change or reorganize the same, and to disband any company or companies of the said department; also, to discontinue and disband said fire department, and to create, organize, establish and maintain a paid fire department for such city.

(23) Water supply: To adopt, enter into and carry out means for securing a supply of water for the use of such city or its inhabitants, or for irrigation purposes therein.

(24) Overflow of water: To prevent the overflow of the city or to secure its drainage, and to assess the cost thereof to the property benefited.

(25) House numbers: To provide for the numbering of houses.

(26) Health board: To establish a board of health; to prevent the introduction and spread of disease; to establish a city infirmary and to provide for the indigent sick; and to provide and enforce regulations for the protection of health, cleanliness, peace and good order of the city; to establish and maintain hospitals within or without the city limits; to control and regulate interments and to prohibit them within the city limits.

(27) Harbors and wharves: To build, alter, improve, keep in repair and control the waterfront; to erect, regulate and repair wharves, and to fix the rate of wharfage and transit of wharf, and levy dues upon vessels and commodities; and to provide for the regulation of berths, landing, stationing and removing steamboats, sail vessels, rafts, barges and all other watercraft; to fix the rate of speed at which steamboats and other steam watercraft may run along the waterfront of the city; to build bridges so as not to interfere with navigation; to provide for the removal of obstructions to the navigation of any channel or watercourses or channels.

(28) License of steamers: To license steamers, boats and vessels used in any watercourse in the city, and to fix and collect a license tax thereon.

(29) Ferry licenses: To license ferries and toll bridges under the law regulating the granting of such license.

(30) Penalty for violation of ordinances: To determine and impose fines for forfeitures and penalties that shall be incurred for the breach or violation of any city ordinance, notwithstanding that the act constituting a violation of any such ordinance may also be punishable under the state laws, and also for a violation of the provisions of this chapter, when no penalty is affixed thereto or provided by law, and to appropriate all such fines, penalties and forfeitures for the benefit of the city; but no penalty to be enforced shall exceed for any offense the amount of five hundred dollars or six months' imprisonment, or both; and every violation of any lawful order, regulation or ordinance of the city council of such city is hereby declared a misdemeanor or public offense, and all prosecutions for the same may be in the name of the state of Washington.

(31) Police department: To create and establish a city police; to prescribe their duties and their compensation and to provide for the regulation and government of the same.

(32) Elections: To provide for conducting elections and establishing election precincts when necessary, to be as near as may be in conformity with the state law.

(33) Examine official accounts: To examine, either in open session or by committee, the accounts or doings of all officers or other persons having the care, management or disposition of moneys, property or business of the city.

(34) Contracts: To make all appropriations, contracts or agreements for the use or benefit of the city and in the city's name.

(35) Streets and sidewalks: To provide by ordinance for the opening, laying out, altering, extending, repairing, grading, paving, planking, graveling, macadamizing, or otherwise improving of public streets, avenues and other public ways, or any portion of any thereof; and for the construction, regulation and repair of sidewalks and other street improvements, all at the expense of the property to be benefited thereby, without any recourse, in any event, upon the city for any portion of the expense of such work, or any delinquency of the property holders or owners, and to provide for the forced sale thereof for such purposes; to establish a uniform grade for streets, avenues, sidewalks and squares, and to enforce the observance thereof.

(36) Waterways: To clear, cleanse, alter, straighten, widen, fill up or close any waterway, drain or sewer, or any watercourse in such city when not declared by law to be navigable, and to assess the expense thereof, in whole or in part, to the property specially benefited.

(37) Sewerage: To adopt, provide for, establish and maintain a general system of sewerage, draining, or both, and the regulation thereof; to provide funds by local assessments on the property benefited for the purpose aforesaid and to determine the manner, terms and place of connection with main or central lines of pipes, sewers or drains established, and compel compliance with and conformity to such general system of sewerage or drainage, or both, and the regulations of said council thereto relating, by the infliction of suitable penalties and forfeitures against persons and property, or either, for nonconformity to, or failure to comply with the provisions of such system and regulations or either.

(38) Buildings and parks: To provide for all public buildings, public parks or squares, necessary or proper for the use of the city.

(39) Franchises: To permit the use of the streets for railroad or other public service purposes.

(40) Payment of judgments: To order paid any final judgment against such city, but none of its lands or property of any kind or nature, taxes, revenue, franchise or rights, or interest, shall be attached, levied upon or sold in or under any process whatsoever.

(41) Weighing of fuel: To regulate the sale of coal and wood in such city, and may appoint a measurer of wood and weigher of coal for the city, and define his duties, and may prescribe his term of office, and the fees he shall receive for his services: *Provided*, That such fees shall in all cases be paid by the parties requiring such service.

(42) Hospitals, etc.: To erect and establish hospitals and pesthouses and to control and regulate the same.

(43) Waterworks: To provide for the erection, purchase or otherwise acquiring of waterworks within or without the corporate limits of the city to supply such city and its inhabitants with water, and to regulate and control the use and price of the water so supplied.

(44) City lights: To provide for lighting the streets and all public places of the city and for furnishing the inhabitants of the city with gas, electric or other light, and for the ownership, purchase or acquisition, construction, or maintenance of such works as may be necessary or convenient therefor: *Provided*, That no purchase of any such water plant or light plant shall be made without first submitting the question of such purchase to the electors of the city.

(45) Parks: To acquire by purchase or otherwise land for public parks, within or without the limits of the city, and to improve the same.

(46) Bridges: To construct and keep in repair bridges, and to regulate the use thereof.

(47) Power of eminent domain: In the name of and for the use and benefit of the city, to exercise the right of eminent domain, and to condemn lands and property for the purposes of streets, alleys, parks, public grounds, waterworks or for any other municipal purpose and to

acquire by purchase or otherwise such lands and property as may be deemed necessary for any of the corporate uses provided for by this title, as the interests of the city may from time to time require.

(48) To provide for the assessment of taxes: To provide for the assessment, levying and collecting of taxes on real and personal property for the corporate uses and purposes of the city and to provide for the payment of the debts and expenses of the corporation.

(49) Local improvements: To provide for making local improvements, and to levy and collect special assessments on the property benefited thereby and for paying the same or any portion thereof; to determine what work shall be done or improvements made, at the expense, in whole or in part, of the adjoining, contiguous, or proximate property, and to provide for the manner of making and collecting assessments therefor.

(50) Cemeteries: To regulate the burial of the dead and to establish and regulate cemeteries, within or without the corporate limits, and to acquire lands therefor by purchase or otherwise.

(51) Fire limits: To establish fire limits with proper regulations and to make all needful regulations for the erection and maintenance of buildings or other structures within the corporate limits as safety of persons or property may require, and to cause all such buildings and places as may from any cause be in a dangerous state to be put in a safe condition; to regulate the manner in which stone, brick and other buildings, party walls and partition fences shall be constructed and maintained.

(52) Safety and sanitary measures: To require the owners of public halls, theaters, hotels and other buildings to provide suitable means of exit and proper fire escapes; to provide for the cleaning and purification of watercourses and canals and for the draining and filling up of ponds on private property within its limits when the same shall be offensive to the senses or dangerous to the health, and to charge the expense thereof to the property specially benefited, and to regulate and control and provide for the prevention and punishment of the defilement or pollution of all streams running in or through its corporate limits and a distance of five miles beyond its corporate limits, and of any stream or lake from which the water supply of the city is or may be taken and for a distance of five miles beyond its source of supply, and to make all quarantine and other regulations as may be necessary for the preservation of the public health and to remove all persons afflicted with any contagious disease to some suitable place to be provided for that purpose.

(53) To regulate liquor traffic: To regulate the selling or giving away of intoxicating, spirituous, malt, vinous, mixed or fermented liquors as authorized by the general laws of the state.

(54) To establish streets on tidelands: To project or extend or establish streets over and across any tidelands within the limits of such city.

(55) To provide for the general welfare. [1977 1st ex.s. c 316 § 21; 1965 ex.s. c 116 § 7; 1965 c 7 § 35.23-.440. Prior: 1907 c 241 § 29; 1890 p 148 § 38; RRS § 9034.]

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

Chapter 35.24 THIRD CLASS CITIES

Sections

35.24.160 Chief of police and police department.
35.24.290 Specific powers enumerated.

35.24.160 Chief of police and police department.

The department of police in a city of the third class shall be under the direction and control of the chief of police subject to the direction of the mayor. The chief of police shall prosecute before the police justice all violations of city ordinances which come to his knowledge. He may pursue and arrest violators of city ordinances beyond the city limits.

His lawful orders shall be promptly executed by deputies, police officers and watchmen. Every citizen shall lend him aid, when required, for the arrest of offenders and maintenance of public order. With the concurrence of the mayor, he may appoint additional policemen to serve for one day only under his orders in the preservation of public order.

He shall have the same authority as that conferred upon sheriffs for the suppression of any riot, public tumult, disturbance of the peace, or resistance against the laws or the public authorities in the lawful exercise of their functions and shall be entitled to the same protection.

He shall perform such other services as may be required by statute or ordinances of the city.

He shall execute and return all process issued and directed to him by lawful authority and for his services shall receive the same fees as are paid to constables. [1977 1st ex.s. c 316 § 22; 1965 c 7 § 35.24.160. Prior: 1915 c 184 § 27; 1893 c 70 § 12; 1890 p 195 § 136; RRS § 9141.]

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

Commencement of actions: Chapter 4.28 RCW.

Unclaimed property in hands of city or town: Chapter 63.36 RCW.

Unclaimed property in hands of city police: Chapter 63.32 RCW.

35.24.290 Specific powers enumerated. The city council of each third class city shall have power:

(1) To pass ordinances not in conflict with the Constitution and laws of this state or of the United States;

(2) To prevent and regulate the running at large of any or all domestic animals within the city limits or any part thereof and to cause the impounding and sale of any such animals;

(3) To establish, build and repair bridges, to establish, lay out, alter, keep open, open, widen, vacate, improve and repair streets, sidewalks, alleys, squares and other public highways and places within the city, and to drain, sprinkle and light the same; to remove all obstructions therefrom; to establish and reestablish the grades thereof; to grade, plank, pave, macadamize, gravel and curb the same, in whole or in part; to construct gutters,

culverts, sidewalks and crosswalks therein or upon any part thereof; to cultivate and maintain parking strips therein, and generally to manage and control all such highways and places; to provide by local assessment for the leveling up and surfacing and oiling or otherwise treating for the laying of dust, all streets within the city limits;

(4) To establish, construct and maintain drains and sewers, and shall have power to compel all property owners on streets and alleys or within two hundred feet thereof along which sewers shall have been constructed to make proper connections therewith and to use the same for proper purposes, and in case the owners of the property on such streets and alleys or within two hundred feet thereof fail to make such connections within the time fixed by such council, it may cause such connections to be made and assess against the property served thereby the costs and expenses thereof;

(5) To provide fire engines and all other necessary or proper apparatus for the prevention and extinguishment of fires;

(6) To impose and collect an annual license on every dog within the limits of the city, to prohibit dogs running at large and to provide for the killing of all dogs not duly licensed found at large;

(7) To license, for the purposes of regulation and revenue, all and every kind of business authorized by law, and transacted and carried on in such city, and all shows, exhibitions and lawful games carried on therein and within one mile of the corporate limits thereof, to fix the rate of license tax upon the same, and to provide for the collection of the same by suit or otherwise;

(8) To improve rivers and streams flowing through such city, or adjoining the same; to widen, straighten and deepen the channel thereof, and remove obstructions therefrom; to improve the water-front of the city, and to construct and maintain embankments and other works to protect such city from overflow; to prevent the filling of the water of any bay, except such filling over tide or shorelands as may be provided for by order of the city council; to purify and prevent the pollution of streams of water, lakes or other sources of supply, and for this purpose shall have jurisdiction over all streams, lakes or other sources of supply, both within and without the city limits. Such city shall have power to provide by ordinance and to enforce such punishment or penalty as the city council may deem proper for the offense of polluting or in any manner obstructing or interfering with the water supply of such city or source thereof;

(9) To erect and maintain buildings for municipal purposes;

(10) To permit, under such restrictions as it may deem proper, and to grant franchises for, the laying of railroad tracks, and the running of cars propelled by electric, steam or other power thereon, and the laying of gas and water pipes and steam mains and conduits for underground wires, and to permit the construction of tunnels or subways in the public streets, and to construct and maintain and to permit the construction and maintenance of telegraph, telephone and electric lines therein;

(11) In its discretion to divide the city by ordinance, into a convenient number of wards, not exceeding six, to

fix the boundaries thereof, and to change the same from time to time: *Provided*, That no change in the boundaries of any ward shall be made within sixty days next before the date of a general municipal election, nor within twenty months after the wards have been established or altered. Whenever such city is so divided into wards, the city council shall designate by ordinance the number of councilmen to be elected from each ward, apportioning the same in proportion to the population of the wards. Thereafter the councilmen so designated shall be elected by the qualified electors resident in such ward, or by general vote of the whole city as may be designated in such ordinance. When additional territory is added to the city it may by act of the council, be annexed to contiguous wards without affecting the right to redistrict at the expiration of twenty months after last previous division. The removal of a councilman from the ward for which he was elected shall create a vacancy in such office;

(12) To impose fines, penalties and forfeitures for any and all violations of ordinances, and for any breach or violation of any ordinance to fix the penalty by fine or imprisonment, or both, but no such fine shall exceed five hundred dollars nor the term of such imprisonment exceed the term of six months;

(13) To establish fire limits, with proper regulations;

(14) To establish and maintain a free public library;

(15) To establish and regulate public markets and market places;

(16) To punish the keepers and inmates and lessors of houses of ill fame, gamblers and keepers of gambling tables, patrons thereof or those found loitering about such houses and places;

(17) To make all such ordinances, bylaws, rules, regulations and resolutions, not inconsistent with the Constitution and laws of the state of Washington, as may be deemed expedient to maintain the peace, good government and welfare of the corporation and its trade, commerce and manufactures, and to do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter, and to enact and enforce within the limits of such city all other local, police, sanitary and other regulations as do not conflict with general laws;

(18) To license steamers, boats and vessels used in any bay or other watercourse in the city and to fix and collect such license; to provide for the regulation of berths, landings, and stations, and for the removing of steamboats, sail boats, sail vessels, rafts, barges and other watercraft; to provide for the removal of obstructions to navigation and of structures dangerous to navigation or to other property, in or adjoining the waterfront, except in municipalities in counties in which there is a city of the first class. [1977 1st ex.s. c 316 § 23; 1965 ex.s. c 116 § 10; 1965 c 7 § 35.24.290. Prior: 1915 c 184 § 14; 1893 c 70 § 3; 1891 c 56 § 3; 1890 p 183 § 17; RRS § 9127.]

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

Chapter 35.27

TOWNS

Sections

35.27.240

Town marshal—Police department.

35.27.370

Specific powers enumerated.

35.27.240 Town marshal—Police department.

The department of police in a town shall be under the direction and control of the marshal subject to the direction of the mayor. He shall prosecute before the police justice all violations of town ordinances which come to his knowledge. He may pursue and arrest violators of town ordinances beyond the town limits.

His lawful orders shall be promptly executed by deputies, police officers and watchmen. Every citizen shall lend him aid, when required, for the arrest of offenders and maintenance of public order. He may appoint, subject to the approval of the mayor, one or more deputies, for whose acts he and his bondsmen shall be responsible, whose compensation shall be fixed by the council. With the concurrence of the mayor, he may appoint additional policemen for one day only when necessary for the preservation of public order.

He shall have the same authority as that conferred upon sheriffs for the suppression of any riot, public tumult, disturbance of the peace, or resistance against the laws or public authorities in the lawful exercise of their functions and shall be entitled to the same protection.

He shall execute and return all process issued and directed to him by any legal authority and for his services shall receive the same fees as are paid to constables. He shall perform such other services as the council by ordinance may require. [1977 1st ex.s. c 316 § 24; 1965 c 125 § 1; 1965 c 7 § 35.27.240. Prior: 1963 c 191 § 1; 1890 p 213 § 172; RRS § 9190.]

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

35.27.370 Specific powers enumerated. The council of said town shall have power:

(1) To pass ordinances not in conflict with the Constitution and laws of this state, or of the United States;

(2) To purchase, lease or receive such real estate and personal property as may be necessary or proper for municipal purposes, and to control, dispose of and convey the same for the benefit of the town; to acquire, own, and hold real estate for cemetery purposes either within or without the corporate limits, to sell and dispose of such real estate, to plat or replat such real estate into cemetery lots and to sell and dispose of any and all lots therein, and to operate, improve and maintain the same as a cemetery;

(3) To contract for supplying the town with water for municipal purposes, or to acquire, construct, repair and manage pumps, aqueducts, reservoirs, or other works necessary or proper for supplying water for use of such town or its inhabitants, or for irrigating purposes therein;

(4) To establish, build and repair bridges, to establish, lay out, alter, widen, extend, keep open, improve, and

repair streets, sidewalks, alleys, squares and other public highways and places within the town, and to drain, sprinkle and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, plank, macadamize, gravel and curb the same, in whole or in part, and to construct gutters, culverts, sidewalks and crosswalks therein, or on any part thereof; to cause to be planted, set out and cultivated trees therein, and generally to manage and control all such highways and places;

(5) To establish, construct and maintain drains and sewers, and shall have power to compel all property owners on streets along which sewers are constructed to make proper connections therewith, and to use the same for proper purposes when such property is improved by the erection thereon of a building or buildings; and in case the owners of such improved property on such streets shall fail to make such connections within the time fixed by such council, they may cause such connections to be made, and to assess against the property in front of which such connections are made the costs and expenses thereof;

(6) To provide fire engines and all other necessary or proper apparatus for the prevention and extinguishment of fires;

(7) To impose and collect an annual license on every dog within the limits of the town, to prohibit dogs running at large, and to provide for the killing of all dogs found at large and not duly licensed;

(8) To levy and collect annually a property tax, for the payment of current expenses and for the payment of indebtedness (if any indebtedness exists) within the limits authorized by law;

(9) To license, for purposes of regulation and revenue, all and every kind of business, authorized by law and transacted and carried on in such town; and all shows, exhibitions and lawful games carried on therein and within one mile of the corporate limits thereof; to fix the rate of license tax upon the same, and to provide for the collection of the same, by suit or otherwise; to regulate, restrain, or prohibit the running at large of any and all domestic animals within the city limits, or any part or parts thereof, and to regulate the keeping of such animals within any part of the city; to establish, maintain and regulate a common pound for estrays, and to appoint a poundkeeper, who shall be paid out of the fines and fees imposed on, and collected from, the owners of any impounded stock;

(10) To improve the rivers and streams flowing through such town or adjoining the same; to widen, straighten and deepen the channels thereof, and to remove obstructions therefrom; to prevent the pollution of streams or water running through such town, and for this purpose shall have jurisdiction for two miles in either direction; to improve the waterfront of the town, and to construct and maintain embankments and other works to protect such town from overflow;

(11) To erect and maintain buildings for municipal purposes;

(12) To grant franchises or permits to use and occupy the surface, the overhead and the underground of streets, alleys and other public ways, under such terms

and conditions as it shall deem fit, for any and all purposes, including but not being limited to the construction, maintenance and operation of railroads, street railways, transportation systems, water, gas and steam systems, telephone and telegraph systems, electric lines, signal systems, surface, aerial and underground tramways;

(13) To punish the keepers and inmates and lessors of houses of ill fame, and keepers and lessors of gambling houses and rooms and other places where gambling is carried on or permitted, gamblers and keepers of gambling tables;

(14) To impose fines, penalties and forfeitures for any and all violations of ordinances, and for any breach or violation of any ordinance, to fix the penalty by fine or imprisonment, or both; but no such fine shall exceed five hundred dollars, nor the term of imprisonment exceed six months;

(15) To operate ambulance service which may serve the town and surrounding rural areas and, in the discretion of the council, to make a charge for such service;

(16) To make all such ordinances, bylaws, rules, regulations and resolutions not inconsistent with the Constitution and laws of the state of Washington, as may be deemed expedient to maintain the peace, good government and welfare of the town and its trade, commerce and manufacturers, and to do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter. [1977 1st ex.s. c 316 § 25; 1965 ex.s. c 116 § 15; 1965 c 127 § 1; 1965 c 7 § 35.27.370. Prior: 1955 c 378 § 4; 1949 c 151 § 1; 1945 c 214 § 1; 1941 c 74 § 1; 1927 c 207 § 1; 1925 ex.s. c 159 § 1; 1895 c 32 § 1; 1890 p 201 § 154; Rem. Supp. 1949 § 9175.]

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

Validating—1925 ex.s. c 159: "All franchises, permits and rights of way heretofore granted by any municipality of the fourth class to any person, firm or corporation, to construct, maintain or operate surface, underground and aerial tramways and other means of conveyance over, above, across, upon and along its streets, highways and alleys are hereby validated, ratified and confirmed." [1925 ex.s. c 159 § 2.]

Chapter 35.43

LOCAL IMPROVEMENTS—AUTHORITY— INITIATION OF PROCEEDINGS

Sections

35.43.260 Service fees for sewers not constructed within ten years after voter approval—Credit against future assessments, service charges.

35.43.260 Service fees for sewers not constructed within ten years after voter approval—Credit against future assessments, service charges. Any municipal corporation, quasi municipal corporation, or political subdivision which has the authority to install sewers by establishing local improvement districts, which has charged and collected monthly service fees for sewers, that have been authorized and approved by the voters and have not been constructed for a period of ten or more years since the voter approval, is hereby authorized

and directed to grant a credit against the future assessment to be assessed at the time of actual completion of construction of the sewers for each parcel of real property in an amount equal in dollars to the total amount of service fees charged and collected since voter approval for each such parcel, plus interest at six percent compounded annually: *Provided*, That if such service fees and interest exceed the future assessment for construction of the sewers, such excess funds shall be used to defray future sewer service charge fees.

It is the intent of the legislature that the provisions of this section are procedural and remedial and shall have retroactive effect. [1977 c 72 § 3.]

Chapter 35.58

METROPOLITAN MUNICIPAL CORPORATIONS

Sections

35.58.020 Definitions. (Effective July 1, 1978.)
35.58.2712 Public transportation feasibility study—Advanced financial support payments.

Transportation centers authorized: Chapter 81.75 RCW.

35.58.020 Definitions. (Effective July 1, 1978.) As used herein:

(1) "Metropolitan municipal corporation" means a municipal corporation of the state of Washington created pursuant to this chapter, or a county which has by ordinance or resolution assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation pursuant to the provisions of **this 1977 amendatory act**.

(2) "Metropolitan area" means the area contained within the boundaries of a metropolitan municipal corporation, or within the boundaries of an area proposed to be organized as such a corporation.

(3) "City" means an incorporated city or town.

(4) "Component city" means an incorporated city or town within a metropolitan area.

(5) "Component county" means a county, all or part of which is included within a metropolitan area.

(6) "Central city" means the city with the largest population in a metropolitan area.

(7) "Central county" means the county containing the city with the largest population in a metropolitan area.

(8) "Special district" means any municipal corporation of the state of Washington other than a city, county, or metropolitan municipal corporation.

(9) "Metropolitan council" means the legislative body of a metropolitan municipal corporation, or the legislative body of a county which has by ordinance or resolution assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation pursuant to the provisions of **this 1977 amendatory act**.

(10) "City council" means the legislative body of any city or town.

(11) "Population" means the number of residents as shown by the figures released for the most recent official state, federal, or county census, or population determination made under the direction of **the state census board**.

(12) "Metropolitan function" means any of the functions of government named in RCW 35.58.050.

(13) "Authorized metropolitan function" means a metropolitan function which a metropolitan municipal corporation shall have been authorized to perform in the manner provided in this chapter.

(14) "Metropolitan public transportation" or "metropolitan transportation" for the purposes of this chapter shall mean the transportation of packages, passengers and their incidental baggage by means other than by chartered bus, sightseeing bus, or any other motor vehicle not on an individual fare-paying basis, together with the necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from such people-moving systems: *Provided*, That nothing in this chapter shall be construed to prohibit a metropolitan municipal corporation from leasing its buses to private certified carriers or to prohibit the metropolitan municipal corporation from providing school bus service for the transportation of pupils.

(15) "Pollution" has the meaning given in RCW 90.48.020. [1977 1st ex.s. c 277 § 12. Prior: 1974 ex.s. c 84 § 1; 1974 ex.s. c 70 § 2; 1971 ex.s. c 303 § 2; 1965 c 7 § 35.58.020; prior: 1957 c 213 § 2.]

County assumption of metropolitan municipal corporation functions, etc.: Chapter 36.56 RCW.

Reviser's note: *(1) "the state census board" abolished by RCW 43.63A.150. Powers and duties pertaining to state census vested in office of program planning and fiscal management. See RCW 43.41.110(7). Office of program planning and fiscal management redesignated office of financial management by 1977 1st ex.s. c 114. See RCW 43.41.035.

** (2) "this 1977 amendatory act" [1977 1st ex.s. c 277] consists of chapter 36.56 RCW and the amendment to this section by 1977 1st ex.s. c 277.

(3) The effective date of the 1977 amendment to this section is July 1, 1978; see RCW 36.56.910.

(4) For severability and construction provision applicable to 1977 1st ex.s. c 277, see RCW 36.56.900.

35.58.2712 Public transportation feasibility study—Advanced financial support payments. Any municipality, as defined in RCW 35.95.020, may be eligible to receive a one-time advanced financial support payment to perform a feasibility study to determine the need for public transportation to serve its residents. This payment shall be governed by the following conditions:

(1) The payment shall precede any advanced financial support payment to develop a plan pursuant to RCW 36.57A.150;

(2) The amount of such payment shall be commensurate with the number of residents in and the size of the land area of such municipality and shall not exceed thirty-five thousand dollars; and

(3) Repayment of an advanced financial support payment shall be made to the public transportation account in the general fund, or, if such account does not exist, to the general fund by the municipality within two years after the date such advanced payment was received. The study shall be completed within one year after the date such advanced payment was received. The study and its recommendations shall then be presented to the legislative authority of the municipality. Within six months of its receipt of the study and its recommendations, the

legislative authority shall pass a resolution adopting or rejecting all or part of the study. A copy of the resolution shall be transmitted to the state agency administering this section. Such repayment shall be waived within two years of the date such advanced payment was received if the legislative authority or the voters in such municipality do not elect to levy and collect taxes to support public transportation in their area. Such repayment shall not be waived in the event any of the provisions of this subsection are not followed.

The state transportation commission, or, if such does not exist, the planning and community affairs agency shall provide technical assistance in the preparation of feasibility studies, and shall adopt reasonable rules and regulations to carry out the provisions of this section. [1977 1st ex.s. c 44 § 6.]

Severability—Effective date—1977 1st ex.s. c 44: See notes following RCW 36.57A.030.

Chapter 35.63

PLANNING COMMISSIONS

Sections

35.63.130 Hearing examiner system—Adoption authorized—Alternative—Functions—Procedures.

35.63.130 Hearing examiner system—Adoption authorized—Alternative—Functions—Procedures. As an alternative to those provisions of this chapter relating to powers or duties of the planning commission to hear and report on any proposal to amend a zoning ordinance, the legislative body of a city or county may adopt a hearing examiner system under which a hearing examiner or hearing examiners may hear and decide applications for amending the zoning ordinance when the amendment which is applied for is not of general applicability. In addition, the legislative body may vest in a hearing examiner the power to hear and decide applications for conditional uses, variances, or any other class of applications for or pertaining to land uses which the legislative body believes should be reviewed and decided by a hearing examiner. The legislative body shall prescribe procedures to be followed by the hearing examiner.

Each city or county legislative body electing to use a hearing examiner pursuant to this section shall by ordinance specify the legal effect of the decisions made by the examiner. The legal effect of such decisions may vary for the different classes of applications decided by the examiner but shall include one of the following:

(1) The decision may be given the effect of a recommendation to the legislative body;

(2) The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative body.

Each final decision of a hearing examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Such findings and conclusions shall also set forth the manner in which the decision would carry out and conform to the city's or county's comprehensive plan and the city's or county's

development regulations. Each final decision of a hearing examiner, unless a longer period is mutually agreed to in writing by the applicant and the hearing examiner, shall be rendered within ten working days following conclusion of all testimony and hearings. [1977 1st ex.s. c 213 § 1.]

Severability—1977 1st ex.s. c 213: "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." [1977 1st ex.s. c 213 § 5.]

Chapter 35.68

SIDEWALKS, GUTTERS, CURBS, AND DRIVEWAYS—ALL CITIES AND TOWNS

Sections

35.68.075 Curb ramps for physically handicapped—Required—Standards and requirements.
35.68.076 Curb ramps for physically handicapped—Model standards.

35.68.075 Curb ramps for physically handicapped—Required—Standards and requirements.

(1) The standard for construction of curbs on any county, city, or town street, or any connecting street or town road for which curbs and sidewalks have been prescribed by the governing body of the county, town, or city having jurisdiction thereover, shall be not less than two ramps per lineal block on or near the crosswalks at intersections. Such ramps shall be at least thirty-six inches wide and so constructed as to allow reasonable access to the crosswalk for physically handicapped persons, without uniquely endangering blind persons.

(2) Standards set for curb ramping under subsection (1) of this section shall not apply to any curb existing upon enactment of this section but shall apply to all new curb construction and to all replacement curbs constructed at any point in a block which gives reasonable access to a crosswalk.

(3) Upon September 21, 1977, every ramp thereafter constructed under subsection (1) of this section, which serves one end of a crosswalk, shall be matched by another ramp at the other end of the crosswalk. However, no ramp shall be required at the other end of the crosswalk if there is no curb nor sidewalk at the other end of the crosswalk. Nor shall any matching ramp constructed pursuant to this subsection require a subsequent matching ramp. [1977 1st ex.s. c 137 § 1; 1973 c 83 § 1.]

35.68.076 Curb ramps for physically handicapped—Model standards. By January 1, 1978, the department of general administration shall, pursuant to chapter 34.04 RCW, adopt several suggested model design, construction, or location standards to aid counties, cities, and towns in constructing curb ramps to allow reasonable access to the crosswalk for physically handicapped persons without uniquely endangering blind persons. The department of general administration shall consult with handicapped persons, blind persons, counties, cities, and the building code advisory council in adopting the suggested standards. In addition, the

department of general administration shall, within thirty days of September 21, 1977 and pursuant to RCW 34.04.030, adopt a suggested design or construction standard for curb ramps which may be used by counties, cities, or towns to comply with RCW 35.68.075 in the interval between September 21, 1977 and the adoption of further suggested model standards. [1977 1st ex.s. c 137 § 2.]

Chapter 35.77

STREETS—PLANNING, ESTABLISHMENT, CONSTRUCTION, AND MAINTENANCE

Sections

35.77.010 Perpetual advanced plans for coordinated street program—Six year program for arterial street construction—Expenditures—Bicycle, pedestrian and equestrian funds, expenditures.

35.77.010 Perpetual advanced plans for coordinated street program—Six year program for arterial street construction—Expenditures—Bicycle, pedestrian and equestrian funds, expenditures. (1) The legislative body of each city and town, pursuant to one or more public hearings thereon, shall prepare and adopt a comprehensive street program for the ensuing six calendar years and shall file the same with the director of highways not more than thirty days after its adoption. Annually thereafter the legislative body of each city and town shall review the work accomplished under the program and determine current city street needs. Based on these findings each such legislative body prior to July 1st of each year shall prepare and after public hearings thereon adopt a revised and extended comprehensive street program, and each one year extension and revision shall be filed with the director of highways not more than thirty days after its adoption. The purpose of this section shall be to assure that perpetually each city and town shall have available advanced plans, looking to the future for not less than six years as a guide in carrying out a coordinated street construction program. Such program may at any time be revised by a majority of the legislative body of a city or town, but only after a public hearing.

The six year program of each city lying within an urban area shall contain a separate section setting forth the six year program for arterial street construction based upon its long range construction plan and formulated in accordance with regulations of the urban arterial board. The six year program for arterial street construction shall be submitted to the urban arterial board forthwith after its annual revision and adoption by the legislative body of the city. The six year program for arterial street construction shall be based upon estimated revenues available for such construction together with such additional sums as the legislative authority may request for urban arterials only from the urban arterial trust account for the six year period. The arterial street construction program shall provide for a more rapid rate of completion of the long range construction needs of major arterial streets than for secondary and collector arterial streets, pursuant to regulations of the urban

arterial board: *Provided*, That urban arterial trust funds made available to the group of incorporated cities lying outside the boundaries of federally approved urban areas within each region need not be divided between functional classes of arterials but shall be available for any designated arterial street.

(2) On and after July 1, 1976, each six year program forwarded to the director in compliance with subsection (1) of this section shall contain information as to how a city or town will expend its moneys, including funds made available pursuant to chapter 47.30 RCW, for bicycle, pedestrian, and equestrian purposes. [1977 1st ex.s. c 317 § 7; 1975 1st ex.s. c 215 § 1; 1967 ex.s. c 83 § 27; 1965 c 7 § 35.77.010. Prior: 1961 c 195 § 2.]

Effective dates—Severability—1977 1st ex.s. c 317: See notes following RCW 82.36.010.

Severability—1967 ex.s. c 83: See RCW 47.26.900.

Highways, roads, streets in urban areas, urban arterials, development: Chapter 47.26 RCW.

Joint planning of urban arterial development: RCW 47.26.230.

Long range arterial construction plans, counties and cities to prepare: RCW 47.26.170.

Perpetual advanced plans for coordinated county road program: RCW 36.81.121.

Priority projects to be selected in preparation of six year program: RCW 47.26.220.

Urban arterial board: Chapter 47.26 RCW.

Chapter 35.82

HOUSING AUTHORITIES LAW

Sections

35.82.020 Definitions.
35.82.070 Powers of authority.
35.82.080 Operation not for profit.
35.82.090 Rentals and tenant selection.
35.82.130 Bonds.
35.82.140 Form and sale of bonds.
35.82.150 Provisions of bonds, trust indentures, and mortgages.
35.82.220 Housing bonds legal investments and security.

35.82.020 Definitions. The following terms, wherever used or referred to in this chapter, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(1) "Authority" or "Housing Authority" shall mean any of the public corporations created by RCW 35.82.030.

(2) "City" shall mean any city, town, or code city. "County" shall mean any county in the state. "The city" shall mean the particular city for which a particular housing authority is created. "The county" shall mean the particular county for which a particular housing authority is created.

(3) "Governing body" shall mean, in the case of a city, the city council or the commission and in the case of a county, the county legislative authority.

(4) "Mayor" shall mean the mayor of the city or the officer thereof charged with the duties customarily imposed on the mayor or executive head of the city.

(5) "Clerk" shall mean the clerk of the city or the clerk of the county legislative authority, as the case may be, or the officer charged with the duties customarily imposed on such clerk.

(6) "Area of operation": (a) in the case of a housing authority of a city, shall include such city and the area within five miles from the territorial boundaries thereof: *Provided*, That the area of operation of a housing authority of any city shall not include any area which lies within the territorial boundaries of some other city, as herein defined; (b) in the case of a housing authority of a county, shall include all of the county except that portion which lies within the territorial boundaries of any city as herein defined.

(7) "Federal government" shall include the United States of America, the United States housing authority or any other agency or instrumentality, corporate or otherwise, of the United States of America.

(8) "Slum" shall mean any area where dwellings predominate which, by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary facilities, or any combination of these factors, are detrimental to safety, health and morals.

(9) "Housing project" shall mean any work or undertaking: (a) to demolish, clear or remove buildings from any slum area; such work or undertaking may embrace the adaptation of such area to public purposes, including parks or other recreational or community purposes; or (b) to provide decent, safe and sanitary urban or rural dwellings, apartments or other living accommodations for persons of low income; such work or undertaking may include the rehabilitation of dwellings owned by persons of low income, and also may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, welfare or other purposes; or (c) to accomplish a combination of the foregoing. The term "housing project" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith.

(10) "Persons of low income" shall mean persons or families who lack the amount of income which is necessary (as determined by the authority undertaking the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

(11) "Bonds" shall mean any bonds, notes, interim certificates, debentures, or other obligations issued by the authority pursuant to this chapter.

(12) "Real property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

(13) "Obligee of the authority" or "obligee" shall include any bondholder, trustee or trustees for any bondholders, or lessor demising to the authority property used in connection with a housing project, or any assignee or assignees of such lessor's interest or any part

thereof, and the federal government when it is a party to any contract with the authority.

(14) "Mortgage loan" shall mean an interest bearing obligation secured by a mortgage.

(15) "Mortgage" shall mean a mortgage deed, deed of trust or other instrument securing a mortgage loan and constituting a lien on real property held in fee simple, or on a leasehold under a lease having a remaining term at the time the mortgage is acquired of not less than the term for repayment of the mortgage loan secured by the mortgage, improved or to be improved by a housing project. [1977 1st ex.s. c 274 § 1; 1965 c 7 § 35.82.020. Prior: 1939 c 23 § 3; RRS § 6889-3. Formerly RCW 74.24.020.]

35.82.070 Powers of authority. An authority shall constitute a public body corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein granted:

(1) To sue and be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with this chapter, to carry into effect the powers and purposes of the authority.

(2) Within its area of operation: to prepare, carry out, acquire, lease and operate housing projects; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project or any part thereof; to agree to rent or sell dwellings forming part of the projects to or for persons of low income. Where an agreement or option is made to sell a dwelling to a person of low income, the authority may convey the dwelling to the person upon fulfillment of the agreement irrespective of whether the person is at the time of the conveyance a person of low income. Leases, options, agreements, or conveyances may include such covenants as the authority deems appropriate to assure the achievement of the objectives of this chapter.

(3) To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works, or facilities for, or in connection with, a housing project or the occupants thereof; and (notwithstanding anything to the contrary contained in this chapter or in any other provision of law) to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project.

(4) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and (subject to the limitations contained in this chapter) to establish and revise the rents or charges therefor; to own, hold, and improve real or personal property; to purchase, lease,

obtain options upon, acquire by gift, grant, bequest, devise, or otherwise including financial assistance and other aid from the state or any public body, person or corporation, any real or personal property or any interest therein; to acquire by the exercise of the power of eminent domain any real property; to sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest therein for any purpose upon the finding and declaration by the authority that the property is not needed for low income housing at that time; to insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards; to procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or parts thereof issued by an authority, including the power to pay premiums on any such insurance.

(5) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be canceled.

(6) Within its area of operation: to investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where slum areas exist or where there is a shortage of decent, safe and sanitary dwelling accommodations for persons of low income; to make studies and recommendations relating to the problem of clearing, replanning and reconstructing of slum areas, and the problem of providing dwelling accommodations for persons of low income, and to cooperate with the city, the county, the state or any political subdivision thereof in action taken in connection with such problems; and to engage in research, studies and experimentation on the subject of housing.

(7) Acting through one or more commissioners or other person or persons designated by the authority: to conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to administer oaths, issue subpoenas requiring the attendance of witnesses or the production of books and papers and to issue commissions for the examination of witnesses who are outside of the state or unable to attend before the authority, or excused from attendance; to make available to appropriate agencies (including those charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or insanitary structures within its area of operation) its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety or welfare.

(8) To exercise all or any part or combination of powers herein granted.

No provisions of law with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to an authority unless the legislature shall specifically so state.

(9) To agree (notwithstanding the limitation contained in RCW 35.82.210) to make such payments in lieu of taxes as the authority finds consistent with the achievement of the purposes of this chapter.

(10) To exercise the powers granted in this chapter within the boundaries of any city, town, or county not included in the area in which such housing authority is originally authorized to function: *Provided, however,* The governing or legislative body of such city, town, or county, as the case may be, adopts a resolution declaring that there is a need for the authority to function in such territory.

(11) To administer contracts for assistance payments to persons of low income in accordance with section 8 of the United States Housing Act of 1937, as amended by Title II, section 201 of the Housing and Community Development Act of 1974, P.L. 93-383.

(12) To sell at public or private sale, with or without public bidding, for fair market value, any mortgage or other obligation held by the authority.

(13) To the extent permitted under its contract with the holders of bonds, notes, and other obligations of the authority, to consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest security, or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which the authority is a party.

(14) To make loans to persons of low income incidental to rehabilitating their dwellings or selling a dwelling to them, and to take such security therefor as is deemed necessary and prudent by the authority. [1977 1st ex.s. c 274 § 2; 1965 c 7 § 35.82.070. Prior: 1945 c 43 § 1; 1939 c 23 § 8; Rem. Supp. 1945 § 6889-8. Formerly RCW 74.24.070.]

35.82.080 Operation not for profit. It is hereby declared to be the policy of this state that each housing authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe and sanitary dwelling accommodations, and that no housing authority shall construct or operate any such project for profit, or as a source of revenue to the city or the county. To this end, an authority shall fix the rentals for rental units for persons of low income in projects owned or leased by the authority at no higher rates than it shall find to be necessary in order to produce revenues which (together with all other available moneys, revenues, income and receipts of the authority from whatever sources derived) will be sufficient (1) to pay, as the same become due, the principal and interest on the bonds of the authority issued to finance the projects; (2) to meet the cost of, and to provide for, maintaining and operating the projects (including the cost of any insurance) and the administrative expenses of the authority; and (3) to create (during not less than the six years immediately succeeding its issuance of any such bonds) a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds in any one year thereafter and to maintain such reserve. [1977 1st ex.s. c 274 § 3; 1965 c 7 §

35.82.080. Prior: 1939 c 23 § 9; RRS § 6889–9. Formerly RCW 74.24.080.]

35.82.090 Rentals and tenant selection. In the operation and management of rental units which are rented to persons of low income in any housing project an authority shall at all times observe the following duties with respect to rentals and tenant selection: (1) it may rent or lease the dwelling accommodations therein to persons of low income and at rentals within the financial reach of such persons of low income; (2) it may rent or lease to a tenant dwelling accommodations consisting of the number of rooms (but no greater number) which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding; and (3) it shall not accept any person as a low income tenant in any housing project if the person or persons who would occupy the dwelling accommodations have an annual net income in excess of five times the annual rental of the quarters to be furnished such person or persons, except that in the case of families with three or more minor dependents, such ratio shall not exceed six to one; in computing the rental for this purpose of selecting tenants, there shall be included in the rental the average annual cost (as determined by the authority) to occupants of heat, water, electricity, gas, cooking range and other necessary services or facilities, whether or not the charge for such services and facilities is in fact included in the rental.

Nothing contained in this section or RCW 35.82.080 shall be construed as limiting the power of an authority to vest in an obligee the right, in the event of a default by the authority, to take possession of a housing project or cause the appointment of a receiver thereof, free from all the restrictions imposed by this section or RCW 35.82.080. [1977 1st ex.s. c 274 § 4; 1965 c 7 § 35.82-.090. Prior: 1939 c 23 § 10; RRS § 6889–10. Formerly RCW 74.24.090.]

35.82.130 Bonds. An authority shall have power to issue bonds from time to time in its discretion, for any of its corporate purposes. An authority shall also have power to issue refunding bonds for the purpose of paying or retiring bonds previously issued by it. An authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable: (1) exclusively from the income and revenues of the housing project financed with the proceeds of such bonds; (2) exclusively from the income and revenues of certain designated housing projects whether or not they are financed in whole or in part with the proceeds of such bonds; or (3) from all or part of its revenues or assets generally. Any such bonds may be additionally secured by a pledge of any grant or contributions from the federal government or other source, or a pledge of any income or revenues of the authority, or a mortgage of any housing project, projects or other property of the authority. Any pledge made by the authority shall be valid and binding from the time when the pledge is made and recorded; the revenues, moneys, or property so pledged and thereafter received by the authority shall

immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and 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 the parties have notice thereof. The resolution and any other instrument by which a pledge is created shall be recorded.

Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority (and such bonds and obligations shall so state on their face) shall not be a debt of the city, the county, the state or any political subdivision thereof and neither the city or the county, nor the state or any political subdivision thereof shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of said authority. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes. [1977 1st ex.s. c 274 § 5; 1965 c 7 § 35.82.130. Prior: 1939 c 23 § 14; RRS § 6889–14. Formerly RCW 74.24.130.]

35.82.140 Form and sale of bonds. Bonds of an authority shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution, its trust indenture or mortgage may provide.

The bonds may be sold at public or private sale.

In case any of the commissioners or officers of the authority whose signatures appear on any bond or coupons shall cease to be such commissioners or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if they had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this chapter shall be fully negotiable.

In any suit, action or proceedings involving the validity or enforceability of any bond of an authority or the security therefor, any such bond reciting in substance that it has been issued by the authority to aid in financing a housing project to provide dwelling accommodations for persons of low income shall be conclusively deemed to have been issued for a housing project of such character and said project shall be conclusively deemed to have been planned, located and constructed in accordance with the purposes and provisions of this chapter. [1977 1st ex.s. c 274 § 6; 1970 ex.s. c 56 § 45;

1969 ex.s. c 232 § 22; 1965 c 7 § 35.82.140. Prior: 1939 c 23 § 15; RRS § 6889-15. Formerly RCW 74.24.140.]

Purpose—**Effective date**—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—**Saving**—**Severability**—1969 ex.s. c 232: See notes following RCW 39.44.030.

35.82.150 Provisions of bonds, trust indentures, and mortgages. In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of such bonds or obligations, an authority, in addition to its other powers, shall have power:

(1) To pledge all or any part of its gross or net rents, fees, revenues, or assets, including mortgage loans and obligations securing the same, to which its right then exists or may thereafter come into existence.

(2) To mortgage all or any part of its real or personal property, then owned or thereafter acquired.

(3) To covenant against pledging all or any part of its rents, fees and revenues, or against mortgaging all or any part of its real or personal property, to which its right or title then exists or may thereafter come into existence or against permitting or suffering any lien on such revenues or property; to covenant with respect to limitations on its right to sell, lease or otherwise dispose of any housing project or any part thereof; and to covenant as to what other, or additional debts or obligations may be incurred by it.

(4) To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest thereon; and to redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

(5) To covenant (subject to the limitations contained in this chapter) as to the rents and fees to be charged in the operation of a housing project or projects, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof; to create or to authorize the creation of special funds for moneys held for construction or operating costs, debt service, reserves, or other purposes, and to covenant as to the use and disposition of the moneys held in such funds.

(6) To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(7) To covenant as to use of any or all of its real or personal property; and to covenant as to the maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

(8) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become

or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(9) To vest in a trustee or trustees or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default by said authority, to take possession and use, operate and manage any housing project or part thereof, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the authority with said trustee; to provide for the powers and duties of a trustee or trustees and to limit the liabilities thereof; and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any covenant or rights securing or relating to the bonds.

(10) To covenant as to the use and disposition of the gross income from mortgages owned by the authority and payment of principal of the mortgages.

(11) To exercise all or any part or combination of the powers herein granted; to make covenants other than and in addition to the covenants herein expressly authorized, of like or different character; to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or, in the absolute discretion of said authority, as will tend to make the bonds more marketable notwithstanding that such covenants, acts or things may not be enumerated herein. [1977 1st ex.s. c 274 § 7; 1965 c 7 § 35.82.150. Prior: 1939 c 23 § 16; RRS § 6889-16. Formerly RCW 74.24.150.]

35.82.220 Housing bonds legal investments and security. Notwithstanding any restrictions on investments contained in any laws of this state, the state and all public officers, municipal corporations, political subdivisions, and public bodies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or other obligations issued by a housing authority pursuant to the housing authorities law of this state or issued by any public housing authority or agency in the United States, and such bonds and other obligations shall be authorized security for all public deposits; it being the purpose of this chapter to authorize any persons, firms, corporations, associations, political subdivisions, bodies and officers, public or private, to use any funds owned or controlled by them, including (but not limited to) sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any such bonds or other obligations: *Provided, however,* That nothing contained in this chapter shall be construed as relieving any person, firm or

corporation from any duty of exercising reasonable care in selecting securities. [1977 1st ex.s. c 274 § 8; 1965 c 7 § 35.82.220. Prior: 1939 c 23 § 23; RRS § 6889-23. Formerly RCW 74.24.220.]

**Chapter 35.92
MUNICIPAL UTILITIES**

Sections

35.92.022 Solid waste—Collection and disposal—Processing and conversion into products—Sale agreements—Advertising—Bids.

35.92.022 Solid waste—Collection and disposal—Processing and conversion into products—Sale agreements—Advertising—Bids. A city or town may construct, condemn, purchase, acquire, add to, and extend systems and plants for the collection and disposal of solid waste and for its processing and conversion into other valuable or useful products with full jurisdiction and authority to manage, regulate, maintain, operate and control such systems and plants, and to enter into agreements providing for the maintenance and operation of systems and plants for the processing and conversion of solid waste and for the sale of said products under such terms and conditions as may be determined by the legislative authority of said city or town: *Provided however,* That no such solid waste processing and conversion plant now in existence or hereafter constructed may be condemned: *Provided further,* That agreements relating to the sale of solid materials recovered during the processing of solid waste shall take place only after the receipt of competitive written bids by such city or town: *And provided further,* That all documentary material of any nature associated with the negotiation and formulation of agreement terms and conditions shall become matters of public record as it applies to:

- (a) The maintenance and operation of systems and plants for the processing and conversion of solid waste;
- (b) The sale of products resulting from such processing and conversion; and
- (c) Any materials recovered during the processing of solid waste.

Agreements relating to systems and plants for the processing and conversion of solid wastes to useful products and agreements relating to sale of such products shall be in compliance with RCW 35.21.120. Any agreement for the sale of solid materials recovered during the processing of solid waste shall be entered into only after public advertisement and evaluation of competitive written bids. [1977 1st ex.s. c 164 § 2; 1975 1st ex.s. c 208 § 2.]

**Title 35A
OPTIONAL MUNICIPAL CODE**

Chapters

35A.63 Planning and zoning in code cities.

**Chapter 35A.63
PLANNING AND ZONING IN CODE CITIES**

Sections

35A.63.170 Hearing examiner system—Adoption authorized—Alternative—Functions—Procedures.

35A.63.170 Hearing examiner system—Adoption authorized—Alternative—Functions—Procedures.

As an alternative to those provisions of this chapter relating to powers or duties of the planning commission to hear and report on any proposal to amend a zoning ordinance, the legislative body of a city may adopt a hearing examiner system under which a hearing examiner or hearing examiners may hear and decide applications for amending the zoning ordinance when the amendment which is applied for is not of general applicability. In addition, the legislative body may vest in a hearing examiner the power to hear and decide applications for conditional uses, variances or any other class of applications for or pertaining to land uses which the legislative body believes should be reviewed and decided by a hearing examiner. The legislative body shall prescribe procedures to be followed by a hearing examiner. If the legislative authority vests in a hearing examiner the authority to hear and decide variances, then the provisions of RCW 35A.63.110 shall not apply to the city.

Each city legislative body electing to use a hearing examiner pursuant to this section shall by ordinance specify the legal effect of the decisions made by the examiner. The legal effect of such decisions may vary for the different classes of applications decided by the examiner but shall include one of the following:

- (1) The decision may be given the effect of a recommendation to the legislative body;
- (2) The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative body.

Each final decision of a hearing examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Such findings and conclusions shall also set forth the manner in which the decision would carry out and conform to the city's comprehensive plan and the city's development regulations. Each final decision of a hearing examiner, unless a longer period is mutually agreed to in writing by the applicant and the hearing examiner, shall be rendered within ten working days following conclusion of all testimony and hearings. [1977 1st ex.s. c 213 § 2.]

Severability—1977 1st ex.s. c 213: See note following RCW 35.63.130.

**Title 36
COUNTIES**

Chapters

36.01 General provisions.
36.13 Classification of counties.
36.17 Salaries of county officers.
36.18 Fees of county officers.

- 36.21 County assessor.
- 36.27 Prosecuting attorney.
- 36.32 County commissioners.
- 36.33 County funds.
- 36.33A Equipment rental and revolving fund.
- 36.47 Coordination of administrative programs.
- 36.48 Depositories.
- 36.56 Metropolitan municipal corporation functions, etc.—Assumption by counties.
- 36.57A Public transportation benefit areas.
- 36.59 Homesite lands.
- 36.63 Jails.
- 36.63A City and county jail act of 1974.
- 36.69 Recreation districts act.
- 36.70 Planning enabling act.
- 36.72 Printing.
- 36.75 Roads and bridges—General provisions.
- 36.77 Roads and bridges—Construction.
- 36.78 Roads and bridges—County road administration board.
- 36.82 Roads and bridges—Funds—Budget.
- 36.94 Sewerage, water and drainage systems.

Transportation centers authorized: Chapter 81.75 RCW.

Chapter 36.01

GENERAL PROVISIONS

Sections

- 36.01.120 Foreign trade zones—Legislative finding, intent.
- 36.01.125 Foreign trade zones—Authority to apply for permission to establish, operate and maintain.

36.01.120 Foreign trade zones—Legislative finding, intent. It is the finding of the legislature that foreign trade zones serve an important public purpose by the creation of employment opportunities within the state and that the establishment of zones designed to accomplish this purpose is to be encouraged. It is the further intent of the legislature that the department of commerce and economic development provide assistance to entities planning to apply to the United States for permission to establish such zones. [1977 1st ex.s. c 196 § 5.]

Effective date—1977 1st ex.s. c 196: See note following RCW 24.46.010.

36.01.125 Foreign trade zones—Authority to apply for permission to establish, operate and maintain. A county, as zone sponsor, may apply to the United States for permission to establish, operate, and maintain foreign trade zones: *Provided*, That nothing herein shall be construed to prevent these zones from being operated and financed by a private corporation(s) on behalf of such county acting as zone sponsor. [1977 1st ex.s. c 196 § 6.]

Effective date—1977 1st ex.s. c 196: See note following RCW 24.46.010.

Chapter 36.13

CLASSIFICATION OF COUNTIES

Sections

- 36.13.020 County census authorized.
- 36.13.030 County census authorized—Personnel—How conducted.

36.13.020 County census authorized. Whenever the legislative authority of any county determines that its county has sufficient population to entitle it to advance to a higher class, and passes a resolution setting forth its estimate as to the population and the classification to which the county is entitled by reason of such estimated population it may order a county census to be taken of all the inhabitants of the county. The expense of such census enumeration shall be paid from the county current expense fund. [1977 1st ex.s. c 110 § 6; 1963 c 4 § 36.13.020. Prior: (i) 1923 c 177 § 1; RRS § 4200-6. (ii) 1923 c 177 § 5; RRS § 4200-10.]

36.13.030 County census authorized—Personnel—How conducted. For the purpose of making a county census, the legislative authority of any county may employ one or more suitable persons. The census shall be conducted in accordance with standard census definitions and procedures as specified by the office of program planning and fiscal management. [1977 1st ex.s. c 110 § 1; 1963 c 4 § 36.13.030. Prior: 1923 c 177 § 2; RRS § 4200-7.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Chapter 36.17

SALARIES OF COUNTY OFFICERS

Sections

- 36.17.042 Biweekly pay periods.

36.17.042 Biweekly pay periods. In addition to the pay periods permitted under RCW 36.17.040, the legislative authority of any county may establish a biweekly pay period where county officers and employees receive their compensation not later than seven days following the end of each two week pay period for services rendered during that pay period. [1977 c 42 § 1.]

Chapter 36.18

FEEES OF COUNTY OFFICERS

Sections

- 36.18.010 Auditor's fees.
- 36.18.020 Clerk's fees.
- 36.18.026 Allocation of increase in filing fees by 1977 1st ex.s. c 107.

36.18.010 Auditor's fees. County auditors shall collect the following fees for their official services: For filing each chattel mortgage, renewal affidavit, or conditional sale contract, and entering same as required by law, two dollars; for each assignment, modification,

transfer, correction, or release of chattel mortgage, conditional sale contract, or miscellaneous instrument, two dollars;

For filing a release of chattel mortgage, conditional sale contract, or miscellaneous instrument, two dollars: *Provided*, That said fee shall be paid at the time of filing the chattel mortgage, conditional sale contract, or miscellaneous instrument, and no charge shall be made when the release of any of the above instruments is filed;

For recording instruments, for the first page, legal size (eight and one-half by thirteen inches or less), three dollars; for each additional legal size page, one dollar; for indexing each name over two, fifty cents;

For marginal release of mortgage or lien, one dollar;

For preparing and certifying copies, for the first legal size page, two dollars; for each additional legal size page, one dollar;

For preparing noncertified copies, for each legal size page, fifty cents;

For administering an oath or taking an affidavit, with or without seal, two dollars;

For issuing marriage license, eight dollars, (this fee includes taking necessary affidavits, filing returns, indexing, and transmittal of a record of the marriage to the state registrar of vital statistics);

For searching records per hour, four dollars;

For recording plats, fifty cents for each lot except cemetery plats for which the charge shall be twenty-five cents per lot; also one dollar for each acknowledgment, dedication, and description: *Provided*, That there shall be a minimum fee of twenty-five dollars per plat;

For filing of miscellaneous records, not listed above, three dollars;

For making marginal notations on original recording when blanket assignment or release of instrument is filed for record, each notation, fifty cents;

For recording of miscellaneous records, not listed above, for first legal size page, three dollars; for each additional legal size page, one dollar. [1977 1st ex.s. c 56 § 1; 1967 c 26 § 8; 1963 c 4 § 36.18.010. Prior: 1959 c 263 § 6; 1953 c 214 § 2; 1951 c 51 § 4; 1907 c 56 § 1, part, p 92; 1903 c 151 § 1, part, p 295; 1893 c 130 § 1, part, p 423; Code 1881 § 2086, part, p 358; 1869 p 369 § 3; 1865 p 94 § 1; part; 1863 p 391 § 1, part, p 394; 1861 p 34 § 1, part, p 37; 1854 p 368 § 1, part, p 371; RRS §§ 497, part, 4105.]

Effective date—1967 c 26: See note following RCW 43.20.070.

36.18.020 Clerk's fees. Clerks of superior courts shall collect the following fees for their official services:

(1) The party filing the first or initial paper in any civil action, including an action for restitution, or change of name, shall pay, at the time said paper is filed, a fee of forty-five dollars.

(2) Any party filing the first or initial paper on an appeal from justice court or on any civil appeal, shall pay, when said paper is filed, a fee of forty-five dollars.

(3) The party filing a transcript or abstract of judgment or verdict from a United States court held in this state, or from the superior court of another county or from a justice court in the county of issuance, shall pay at the time of filing, a fee of five dollars.

(4) For the filing of a tax warrant by the department of revenue of the state of Washington, a fee of five dollars shall be paid.

(5) The party filing a demand for jury of six in a civil action, shall pay, at the time of filing, a fee of twenty-five dollars; if the demand is for a jury of twelve the fee shall be fifty dollars. If, after the party files a demand for a jury of six and pays the required fee, any other party to the action requests a jury of twelve, an additional twenty-five dollar fee will be required of the party demanding the increased number of jurors.

(6) For filing any paper, not related to or a part of any proceeding, civil or criminal, or any probate matter, required or permitted to be filed in his office for which no other charge is provided by law, the clerk shall collect two dollars.

(7) For preparing, transcribing or certifying any instrument on file or of record in his office, with or without seal, for the first page or portion thereof, a fee of two dollars, and for each additional page or portion thereof, a fee of one dollar. For authenticating or exemplifying any instrument, a fee of one dollar for each additional seal affixed.

(8) For executing a certificate, with or without a seal, a fee of two dollars shall be charged.

(9) For the filing of an affidavit for garnishment, a fee of five dollars shall be charged.

(10) For approving a bond, including justification thereon, in other than civil actions and probate proceedings, a fee of two dollars shall be charged.

(11) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first paper therein, a fee of forty-five dollars: *Provided, however*, A fee of two dollars shall be charged for filing a will only, when no probate of the will is contemplated.

(12) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, there shall be paid a fee of forty-five dollars.

(13) For the issuance of each certificate of qualification and each certified copy of letters of administration, letters testamentary or letters of guardianship there shall be a fee of two dollars.

(14) For the preparation of a passport application there shall be a fee of three dollars.

(15) Upon conviction or plea of guilty or upon failure to prosecute his appeal from a lower court as provided by law, a defendant in a criminal case shall be liable for a fee of thirty-two dollars.

(16) With the exception of demands for jury hereafter made and garnishments hereafter issued, civil actions and probate proceedings filed prior to midnight, July 1, 1972, shall be completed and governed by the fee schedule in effect as of January 1, 1972: *Provided*, That no fee shall be assessed if an order of dismissal on the clerk's record be filed as provided by rule of the supreme court.

(17) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.36.010. [1977 1st ex.s. c 107 § 1; 1975 c 30 § 1; 1973 c 16 § 1; 1973 c 38 § 1. Prior: 1972 ex.s. c 57 § 5; 1972 ex.s. c 20 § 1; 1970 ex.s. c 32 § 1; 1967 c 26 § 9; 1963 c 4 § 36.18.020; prior: 1961 c 304 § 1; 1961 c 41 §

1; 1951 c 51 § 5; 1907 c 56 § 1, part, p 89; 1903 c 151 § 1, part, p 294; 1893 c 130 § 1, part, p 421; Code 1881 § 2086, part, p 355; 1869 p 364 § 1, part; 1863 p 391 § 1, part; 1861 p 34 § 1, part; 1854 p 368 § 1, part; RRS § 497, part.]

Rules of court: Cf. RAP 14.3, 18.22.

Effective date—1972 ex.s. c 20: "This act shall take effect July 1, 1972." [1972 ex.s. c 20 § 3.]

36.18.026 Allocation of increase in filing fees by 1977 1st ex.s. c 107. The amount of the increase of thirteen dollars in each filing fee paid pursuant to subsection (1), (2), (11), and (12) of RCW 36.18.020 as amended by *this 1977 amendatory act shall be paid into the county treasury and allocated as follows:

(1) For counties which were allocated an increased number of superior court judges by the forty-fifth legislature, the amount of the increase in fees shall be used to defray the salaries and expenses of the judges representing such increase in the number thereof, as needed; and

(2) For any surplus not required for purposes of subsection (1) of this section, or in counties where the number of judges was not increased, the amount of the increase in fees shall be allocated by the county legislative authority to defray the costs of maintaining juvenile and family courts. [1977 1st ex.s. c 107 § 2.]

***Reviser's note:** "this 1977 amendatory act" [1977 1st ex.s. c 107] consists of this section and the amendment to RCW 36.18.020 by 1977 1st ex.s. c 107.

Chapter 36.21 COUNTY ASSESSOR

Sections

- 36.21.015 Qualifications for persons assessing real property—
Examination.
36.21.090 Initial placement of mobile home on assessment roll.

36.21.015 Qualifications for persons assessing real property—Examination. Any person having the responsibility of valuing real property for purposes of taxation including persons acting as assistants or deputies to a county assessor under RCW 36.21.011 as now or hereafter amended, shall have first:

(1) Graduated from an accredited high school or passed a high school equivalency examination;

(2) Had at least one year of experience in transactions involving real property, in appraisal of real property, or in assessment of real property, or at least one year of experience in a combination of the three;

(3) Become knowledgeable in repair and remodeling of buildings and improvement of land, and in the significance of locality and area to the value of real property; and

(4) Become knowledgeable in the standards for appraising property set forth by the department of revenue.

The department of personnel shall prepare with the advice of the department of revenue and administer an examination on the subjects of subsections (3) and (4), and no person shall assess real property for purposes of

taxation without having passed said examination. A person passing said examination shall be certified accordingly by the director of the department of personnel: *Provided, however,* That this section shall not apply to any person who shall have either:

(1) Been certified as a real property appraiser by the department of personnel prior to May 21, 1971; or

(2) Attended and satisfactorily completed the assessor's school operated jointly by the department of revenue and the Washington state assessors association prior to August 9, 1971. [1977 c 75 § 30; 1971 ex.s. c 288 § 17; 1971 ex.s. c 27 § 1.]

Savings—Severability—1971 ex.s. c 288: See notes following RCW 84.40.030.

36.21.090 Initial placement of mobile home on assessment roll. When any mobile home first becomes subject to assessment for property taxes in this state, the county assessor is authorized to place the mobile home on the assessment rolls for purposes of tax levy up to May 31st of each year. The assessed valuation of the mobile home shall be considered as of the April 30th immediately preceding the date that the mobile home is placed on the assessment roll. [1977 1st ex.s. c 22 § 7.]

Severability—1977 1st ex.s. c 22: See note following RCW 46.04.302.

Chapter 36.27 PROSECUTING ATTORNEY

Juvenile justice act of 1977, duties of prosecuting attorney; Chapter 13.40 RCW.

Chapter 36.32 COUNTY COMMISSIONERS

Sections

- 36.32.250 Competitive bids—Procedure in awarding contracts—Bid deposits—Contractor's bond.
36.32.272 through 36.32.278 Repealed.
36.32.350 Coordination of county administrative programs—
Coordinating agency—Agency reimbursement.

36.32.250 Competitive bids—Procedure in awarding contracts—Bid deposits—Contractor's bond. No contract, lease or purchase shall be entered into by the county legislative authority or by any elected or appointed officer of such county until after bids have been submitted to the county legislative authority upon specifications therefor. Such specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection, and an advertisement thereof stating the date after which bids will not be received, the character of the work to be done, or material, equipment, or service to be purchased, and that specifications therefor may be seen at the office of the clerk of the county legislative authority, shall be published in the county official newspaper: *Provided,* That advertisements for public works contracts for construction, alteration, repair, or improvement of public facilities shall be additionally published in a legal newspaper of general circulation in or as near as possible to that

part of the county in which such work is to be done: *And provided further*, That if the county official newspaper is a newspaper of general circulation covering at least forty percent of the residences in that part of the county in which such public works are to be done publication of an advertisement of the applicable specifications in the county official newspaper only shall be sufficient. Such advertisements shall be published at least once in each week for two consecutive weeks prior to the last date upon which bids will be received and as many additional publications as shall be determined by the county legislative authority. The bids shall be in writing, shall be filed with the clerk, shall be opened and read in public at a meeting of the county legislative authority on the date named therefor in said advertisements, and after being opened, shall be filed for public inspection. No bid shall be considered for public work unless it is accompanied by a bid deposit in the form of a surety bond, postal money order, cash, cashier's check, or certified check in an amount equal to five percent of the amount of the bid proposed. The contract for the public work, lease or purchase shall be awarded to the lowest responsible bidder; taking into consideration the quality of the articles or equipment to be purchased or leased. Any or all bids may be rejected for good cause. The county legislative authority shall require from the successful bidder for such public work a contractor's bond in the amount and with the conditions imposed by law. Should the bidder to whom the contract is awarded fail to enter into the contract and furnish the contractor's bond as required within ten days after notice of the award, exclusive of the day of notice, the amount of the bid deposit shall be forfeited to the county and the contract awarded to the next lowest and best bidder. The bid deposit of all unsuccessful bidders shall be returned after the contract is awarded and the required contractor's bond given by the successful bidder is accepted by the county legislative authority. In the letting of any contract, lease or purchase involving less than three thousand five hundred dollars, advertisement and competitive bidding may be dispensed with on order of the county legislative authority. Notice of intention to let contracts or to enter into lease agreements involving amounts exceeding one thousand dollars but less than three thousand five hundred dollars, shall be posted by the county legislative authority on a bulletin board in its office not less than three days prior to making such lease or contract. For advertisement and competitive bidding to be dispensed with as to purchases between one thousand and three thousand five hundred dollars, the county legislative authority must authorize by resolution a county procedure for securing telephone and/or written quotations from enough vendors to assure establishment of a competitive price and for awarding such contracts for purchase of materials, equipment or services to the lowest responsible bidder. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry. Wherever possible, supplies shall be purchased in quantities for a period of at least three months, and not to exceed one year. Supplies generally used throughout the

various departments shall be standardized insofar as possible, and may be purchased and stored for general use by all of the various departments which shall be charged for the supplies when withdrawn from the purchasing department. [1977 1st ex.s. c 267 § 1; 1975 1st ex.s. c 230 § 1; 1967 ex.s. c 144 § 16; 1967 c 97 § 1; 1965 c 113 § 1; 1963 c 4 § 36.32.250. Prior: 1945 c 61 § 2; Rem. Supp. 1945 § 10322-16.]

36.32.272 through 36.32.278 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

36.32.350 Coordination of county administrative programs—Coordinating agency—Agency reimbursement.

Merger of state association of counties with state association of county officials: RCW 36.47.070.

Chapter 36.33 COUNTY FUNDS

Sections

36.33.110 Distribution of forest reserve funds. (Effective September 1, 1978.)

36.33.110 Distribution of forest reserve funds. (Effective September 1, 1978.) The state treasurer shall turn over to the treasurers of the counties within United States forest reserves, the amount of money belonging to them, received from the federal government from such reserves, in accordance with Title 16, section 500, United States Code. Where the reserve is situated in more than one county the money shall be distributed in proportion to the area of the counties interested, and to that end the state treasurer is authorized and required to obtain the necessary information to enable him to make the distribution on such basis.

County commissioners or the legislative authority of the respective counties to which the money is distributed are authorized and directed annually to distribute not less than fifty percent of said money to each school district within each such county according to the proportional number of annual average full time equivalent students enrolled in each such school district during the immediate preceding school year as certified by the educational service district superintendent. The county commissioners or county legislature authority shall expend the balance of said money for the benefit of the public roads of such county, and not otherwise. [1977 1st ex.s. c 359 § 15; 1967 c 230 § 1; 1965 ex.s. c 140 § 1; 1963 c 4 § 36.33.110. Prior: (i) 1907 c 185 § 1; RRS § 11021. (ii) 1949 c 131 § 1; 1907 c 185 § 2; Rem. Supp. 1949 § 4057.]

Effective date—Severability—1977 1st ex.s. c 359: See notes following RCW 28A.58.750.

Basic Education Act of 1977, RCW 36.33.110 as part of: RCW 28A.58.750.

Distribution of funds to school districts, forest reserve funds: RCW 28A.41.130.

Chapter 36.33A

EQUIPMENT RENTAL AND REVOLVING FUND

Sections

36.33A.010	Equipment rental and revolving fund—Establishment—Purposes.
36.33A.020	Use of fund by other offices, departments or agencies.
36.33A.030	Administration of fund.
36.33A.040	Rates for equipment rental.
36.33A.050	Deposits in fund.
36.33A.060	Accumulated moneys.

36.33A.010 Equipment rental and revolving fund—Establishment—Purposes. Every county shall establish, by resolution, an "equipment rental and revolving fund", hereinafter referred to as "the fund", in the county treasury to be used as a revolving fund for the purchase, maintenance, and repair of county road department equipment; for the purchase of equipment, materials, supplies, and services required in the administration and operation of the fund; and for the purchase or manufacture of materials and supplies needed by the county road department. [1977 c 67 § 1.]

36.33A.020 Use of fund by other offices, departments or agencies. The legislative body of any county may authorize, by resolution, the use of the fund by any other office or department of the county government or any other governmental agency for similar purposes. [1977 c 67 § 2.]

36.33A.030 Administration of fund. With the approval of the county legislative body, the county engineer, or other appointee of the county legislative body, shall administer the fund and shall be responsible for establishing the terms and charges for the sale of any material or supplies which have been purchased, maintained, or manufactured with moneys from the fund. The terms and charges shall be set to cover all costs of purchasing, storing, and distributing the material or supplies, and may be amended as considered necessary. [1977 c 67 § 3.]

36.33A.040 Rates for equipment rental. Rates for the rental of equipment owned by the fund shall be set to cover all costs of maintenance and repair, material and supplies consumed in operating or maintaining the equipment, and the future replacement thereof. The rates shall be determined by the county engineer and shall be subject to annual review by the legislative body. [1977 c 67 § 4.]

36.33A.050 Deposits in fund. The legislative authority of the county may, from time to time, place moneys in the fund from any source lawfully available to it and may transfer equipment, materials, and supplies of any office or department to the equipment rental and revolving fund with or without charge consistent with RCW 43.09.210. Charges for the rental of equipment and for providing materials, supplies, and services to any county office or department shall be paid monthly into the fund. Proceeds received from other governmental agencies for similar charges and from the sale of equipment or other personal property owned by the equipment

rental and revolving fund, which is no longer of any value to or needed by the county, shall be placed in the fund as received. [1977 c 67 § 5.]

36.33A.060 Accumulated moneys. Moneys accumulated in the equipment rental and revolving fund shall be retained therein from year to year; shall be used only for the purposes stated in this chapter; and shall be subject to the budgetary regulations in chapter 36.40 RCW. [1977 c 67 § 6.]

Chapter 36.47

COORDINATION OF ADMINISTRATIVE PROGRAMS

Sections

36.47.040	State association of county officials may be coordinating agency—Reimbursement for costs and expenses.
36.47.070	Merger of state association of county officials with state association of counties.

36.47.040 State association of county officials may be coordinating agency—Reimbursement for costs and expenses. Each county which designates the Washington state association of county officials as the agency through which the duties imposed by RCW 36.47.020 may be executed is authorized to reimburse the association from the county current expense fund for the cost of any such services rendered: *Provided*, That no reimbursement shall be made to the association for any expenses incurred under RCW 36.47.050 for travel, meals, or lodging of such county officials, or their representatives at such meetings, but such expenses may be paid by such official's respective county as other expenses are paid for county business. Such reimbursement shall be paid only on vouchers submitted to the county auditor and approved by the board of county commissioners of each county in the manner provided for the disbursement of other current expense funds. Each such voucher shall set forth the nature of the services rendered by the association, supported by affidavit that the services were actually performed. The total of such reimbursements for any county in any calendar year shall not exceed a sum equal to the amount which would be raised by a levy of one-half of a cent per thousand dollars of assessed value against the taxable property in such county. [1977 1st ex.s. c 221 § 1; 1973 1st ex.s. c 195 § 35; 1970 ex.s. c 47 § 2; 1969 ex.s. c 5 § 3; 1963 c 4 § 36.47.040. Prior: 1959 c 130 § 4.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

36.47.070 Merger of state association of county officials with state association of counties. It is the desire of the legislature that the Washington State Association of County Officials, as set forth in chapter 36.47 RCW and the Washington State Association of Counties, as set forth in RCW 36.32.350, shall merge into one association of elected county officers. Only one association shall carry out the duties imposed by RCW 36.32.335

through 36.32.360 and RCW 36.47.020 through 36.47.060.

The two organizations shall report to the legislature by January 1, 1978 on the details of this merger. [1977 1st ex.s. c 221 § 2.]

**Chapter 36.48
DEPOSITARIES**

Sections

36.48.090 Clerk's trust fund created—Deposits—Interest—Investments.

36.48.090 Clerk's trust fund created—Deposits—Interest—Investments. Whenever any person has in his custody as clerk of the superior court any funds held in trust for any litigant or for any purpose, they shall be deposited in a separate fund designated "clerk's trust fund," and shall not be commingled with any public funds, and in case any interest is paid upon any such "clerk's trust fund" so deposited, it shall be paid to the beneficiary of such trust upon the termination thereof. However, the clerk may invest the funds in any of the investments authorized by RCW 36.29.020. The clerk shall place the income from such investments in the county current expense fund to be used by the county for general county purposes unless (1) the funds being held in trust in a particular matter are two thousand dollars or more, and (2) a litigant in the matter has filed a written request that such investment be made of the funds being held in trust and the income be paid to the beneficiary. In such an event, any income from such investment shall be paid to the beneficiary of such trust upon the termination thereof: *Provided*, That five percent of the income shall be deducted by the clerk as an investment service fee and placed in the county current expense fund to be used by the county for general county purposes.

Litigants who have appeared in matters where funds being held in trust are two thousand dollars or more shall be entitled to written notice of the provisions of this section from the clerk, if they have made no written request as stated in this section within thirty days of receipt of the funds by the clerk, and if such litigants have not previously received such notice. [1977 c 63 § 1; 1973 c 126 § 8; 1963 c 4 § 36.48.090. Prior: 1933 ex.s. c 40 § 2; RRS § 5561-2.]

Chapter 36.56

**METROPOLITAN MUNICIPAL CORPORATION
FUNCTIONS, ETC.—ASSUMPTION BY
COUNTIES**

Sections

36.56.010 Assumption of rights, powers, functions and obligations authorized.
36.56.020 Ordinance or resolution of intention to assume rights, powers, functions and obligations—Adoption—Publication—Hearing.
36.56.030 Hearing.
36.56.040 Declaration of intention to assume—Submission of ordinance or resolution to voters required—

Extent of rights, powers, functions and obligations assumed and vested in county—Abolition of metropolitan council—Transfer of rights, powers, functions and obligations to county.
36.56.050 Employees and personnel.
36.56.060 Apportionment of budgeted funds—Transfer and adjustment of funds, accounts and records.
36.56.070 Existing rights, actions, proceedings, etc. not impaired or altered.
36.56.080 Collective bargaining units or agreements.
36.56.090 Rules and regulations, pending business, contracts, obligations, validity of official acts.
36.56.100 Real and personal property—Reports, books, records, etc.—Funds, credits, assets—Appropriations or federal grants.
36.56.110 Debts and obligations.
36.56.900 Severability—Construction—1977 1st ex.s. c 277.
36.56.910 Effective date—1977 1st ex.s. c 277.

36.56.010 Assumption of rights, powers, functions and obligations authorized. Any class AA or class A county in which a metropolitan municipal corporation has been established pursuant to chapter 35.58 RCW with boundaries coterminous with the boundaries of the county may by ordinance or resolution, as the case may be, of the county legislative authority assume the rights, powers, functions, and obligations of such metropolitan municipal corporation in accordance with the provisions of *this 1977 amendatory act. The definitions contained in RCW 35.58.020 shall be applicable to this chapter. [1977 1st ex.s. c 277 § 1.]

***Reviser's note:** "this 1977 amendatory act" or "this act" [1977 1st ex.s. c 277] consists of chapter 36.56 RCW and the amendment to RCW 35.58.020 by 1977 1st ex.s. c 277.

36.56.020 Ordinance or resolution of intention to assume rights, powers, functions and obligations—Adoption—Publication—Hearing. The assumption of the rights, powers, functions, and obligations of a metropolitan municipal corporation may be initiated by the adoption of an ordinance or a resolution, as the case may be, by the county legislative authority indicating its intention to conduct a hearing concerning assumption of such rights, powers, functions, and obligations. In the event the county legislative authority adopts such an ordinance or a resolution of intention, such ordinance or resolution shall set a time and place at which it will consider the proposed assumption of the rights, powers, functions, and obligations of the metropolitan municipal corporation, and shall state that all persons interested may appear and be heard. Such ordinance or resolution of intention shall be published for at least four times during the four weeks next preceding the scheduled hearing in newspapers of daily general circulation printed or published in said county. [1977 1st ex.s. c 277 § 2.]

36.56.030 Hearing. At the time scheduled for the hearing in the ordinance or resolution of intention, the county legislative authority shall consider the assumption of the rights, powers, functions, and obligations of the metropolitan municipal corporation, and hear those appearing and all protests and objections to it. The county legislative authority may continue the hearing from time to time, not exceeding sixty days in all. [1977 1st ex.s. c 277 § 3.]

36.56.040 Declaration of intention to assume—Submission of ordinance or resolution to voters required—Extent of rights, powers, functions and obligations assumed and vested in county—Abolition of metropolitan council—Transfer of rights, powers, functions and obligations to county. If, from the testimony given before the county legislative authority, it appears that the public interest or welfare would be satisfied by the county assuming the rights, powers, functions, and obligations of the metropolitan municipal corporation, the county legislative authority may declare that to be its intent and assume such rights, powers, functions, and obligations by ordinance or resolution, as the case may be, providing that the county shall be vested with every right, power, function, and obligation currently granted to or possessed by the metropolitan municipal corporation pursuant to chapter 35.58 RCW (including RCW 35.58.273 relating to levy and use of the motor vehicle excise tax) or other provision of state law, including but not limited to, the power and authority to levy a sales and use tax pursuant to chapter 82.14 RCW or other provision of law: *Provided*, That such ordinance or resolution shall be submitted to the voters of the county for their adoption and ratification or rejection, and if a majority of the persons voting on the proposition residing within the central city shall vote in favor thereof and a majority of the persons voting on the proposition residing in the metropolitan area outside of the central city shall vote in favor thereof, the ordinance or resolution shall be deemed adopted and ratified.

Upon assumption of the rights, powers, functions, and obligations of the metropolitan municipal corporation by the county, the metropolitan council established pursuant to the provisions of RCW 35.58.120 through 35.58.160 shall be abolished, said provisions shall be inapplicable to the county, and the county legislative authority shall thereafter be vested with all rights, powers, duties, and obligations otherwise vested by law in the metropolitan council: *Provided*, That in any county with a home rule charter such rights, powers, functions, and obligations shall vest in accordance with the executive and legislative responsibilities defined in such charter. [1977 1st ex.s. c 277 § 4.]

36.56.050 Employees and personnel. All employees and personnel of the metropolitan municipal corporation who are under a personnel system pursuant to RCW 35.58.370 shall be assigned to the county personnel system 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 county personnel system. [1977 1st ex.s. c 277 § 5.]

36.56.060 Apportionment of budgeted funds—Transfer and adjustment of funds, accounts and records. If apportionments of budgeted funds are required because of the transfers authorized by this chapter, the county budget office shall certify such apportionments to the agencies and local governmental units affected and

to the state auditor. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with such certification. [1977 1st ex.s. c 277 § 6.]

36.56.070 Existing rights, actions, proceedings, etc. not impaired or altered. No transfer of any function made pursuant to this chapter shall be construed to impair or alter any existing rights acquired under the provisions of chapter 35.58 RCW or any other provision of law relating to metropolitan municipal corporations, nor as impairing or altering any actions, activities, or proceedings validated thereunder, nor as impairing or altering any civil or criminal proceedings instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor any administrative action taken thereunder; and neither the assumption of control of any metropolitan municipal function by a county, nor any transfer of rights, powers, functions, and obligations as provided in this chapter, shall impair or alter the validity of any act performed by such metropolitan municipal corporation or division thereof or any officer thereof prior to the assumption of such rights, powers, functions, and obligations by any county as authorized by this chapter. [1977 1st ex.s. c 277 § 7.]

36.56.080 Collective bargaining units or agreements. Nothing contained in this chapter shall be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until any such agreement has expired or until any such bargaining unit has been modified as provided by law. [1977 1st ex.s. c 277 § 8.]

36.56.090 Rules and regulations, pending business, contracts, obligations, validity of official acts. All rules and regulations, and all pending business before the committees, divisions, boards, and other agencies of any metropolitan municipal corporation transferred pursuant to the provisions of this chapter shall be continued and acted upon by the county.

All existing contracts and obligations of the transferred metropolitan municipal corporation shall remain in full force and effect, and shall be performed by the county. No transfer authorized in this chapter shall affect the validity of any official act performed by any official or employee prior to the transfer authorized pursuant to *this amendatory act. [1977 1st ex.s. c 277 § 9.]

***Reviser's note:** "this amendatory act", see note following RCW 36.56.010.

36.56.100 Real and personal property—Reports, books, records, etc.—Funds, credits, assets—Appropriations or federal grants. When the rights, powers, functions, and obligations of a metropolitan municipal corporation are transferred pursuant to this chapter, all real and personal property owned by the metropolitan municipal corporation shall become that of the county.

All reports, documents, surveys, books, records, files, papers, or other writings relating to the administration of the powers, duties, and functions transferred pursuant

to this chapter and available to the metropolitan municipal corporation shall be made available to the county.

All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed in carrying out the rights, powers, functions, and obligations transferred by this chapter and available to the metropolitan municipal corporation shall be made available to the county.

All funds, credits, or other assets held in connection with powers, duties, and functions herein transferred shall be assigned to the county.

Any appropriations or federal grant made to any committee, division, board, or other department of a metropolitan municipal corporation for the purpose of carrying out the rights, powers, functions, and obligations authorized to be assumed by a county pursuant to this chapter shall on the effective date of such transfer be credited to the county for the purpose of carrying out such transferred rights, powers, functions, and obligations. [1977 1st ex.s. c 277 § 10.]

36.56.110 Debts and obligations. The county shall assume and agree to provide for the payment of all of the indebtedness of the metropolitan municipal corporation including the payment and retirement of outstanding general obligation and revenue bonds issued by the metropolitan municipal corporation. Until the indebtedness of a metropolitan municipal corporation thus assumed by a county has been discharged, all property within the boundaries of the metropolitan municipal corporation and the owners and occupants of that property, shall continue to be liable for taxes, special assessments, and other charges legally pledged to pay the indebtedness of the metropolitan municipal corporation. The county shall assume the obligation of causing the payment of such indebtedness, collecting such taxes, assessments, and charges and observing and performing the other contractual obligations of the metropolitan municipal corporation. The legislative authority of the county shall act in the same manner as the governing body of the metropolitan municipal corporation for the purpose of certifying the amount of any property tax to be levied and collected therein, and may cause service and other charges and assessments to be collected from such property or owners or occupants thereof, enforce such collection and perform all acts necessary to ensure performance of the contractual obligations of the metropolitan municipal corporation in the same manner and by the same means as if the property of the metropolitan municipal corporation had not been acquired by the county.

When a county assumes the obligation of paying indebtedness of a metropolitan municipal corporation and if property taxes or assessments have been levied and service and other charges have accrued for such purpose but have not been collected by the metropolitan municipal corporation prior to such assumption, the same when collected shall belong and be paid to the county and be used by such county so far as necessary for payment of the indebtedness of the metropolitan municipal corporation existing and unpaid on the date such county assumed that indebtedness. Any funds

received by the county which have been collected for the purpose of paying any bonded or other indebtedness of the metropolitan municipal corporation shall be used for the purpose for which they were collected and for no other purpose until such indebtedness has been paid and retired or adequate provision has been made for such payment and retirement. No transfer of property as provided in *this act shall derogate from the claims or rights of the creditors of the metropolitan municipal corporation or impair the ability of the metropolitan municipal corporation to respond to its debts and obligations. [1977 1st ex.s. c 277 § 11.]

*Reviser's note: "this act", see note following RCW 36.56.010.

36.56.900 Severability—Construction—1977 1st ex.s. c 277. If any provision of this 1977 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. In the event the provisions in RCW 36.56.040 requiring approval by both the voters of a central city and the county voters residing outside of the central city are held to be invalid, then such provisions shall be severable and the ballot proposition on the transfer of the metropolitan municipal corporation to the county shall be decided by the majority vote of the voters voting thereon in a county-wide election. [1977 1st ex.s. c 277 § 14.]

36.56.910 Effective date—1977 1st ex.s. c 277. This 1977 amendatory act shall take effect July 1, 1978. [1977 1st ex.s. c 277 § 15.]

Chapter 36.57A

PUBLIC TRANSPORTATION BENEFIT AREAS

Sections

36.57A.030	Establishment or change in boundaries of public transportation benefit area—Hearing—Notice—Procedure—Authority of county to terminate public transportation benefit area.
36.57A.050	Governing body—Selection, qualification, number of members—Per diem.
36.57A.090	Additional powers—Acquisition of existing system.
36.57A.100	Agreements with operators of local public transportation services—Operation without agreement prohibited—Purchase or condemnation of assets.
36.57A.160	Dissolution and liquidation.

Transportation centers authorized: Chapter 81.75 RCW.

36.57A.030 Establishment or change in boundaries of public transportation benefit area—Hearing—Notice—Procedure—Authority of county to terminate public transportation benefit area. Any conference which finds it desirable to establish a public transportation benefit area or change the boundaries of any existing public transportation benefit area shall fix a date for a public hearing thereon, or the legislative bodies of any two or more component cities or the county legislative body by resolution may require the public transportation improvement conference to fix a date for a public hearing thereon. Prior to the convening of the public hearing, the county governing body shall delineate the area of the

county proposed to be included within the transportation benefit area, and shall furnish a copy of such delineation to each incorporated city within such area. Each city shall advise the county governing body, on a preliminary basis, of its desire to be included or excluded from the transportation benefit area. The county governing body shall cause the delineations to be revised to reflect the wishes of such incorporated cities. This delineation shall be considered by the conference at the public hearing for inclusion in the public transportation benefit area.

Notice of such hearing shall be published once a week for at least four consecutive weeks in one or more newspapers of general circulation within the area. The notice shall contain a description and map of the boundaries of the proposed public transportation benefit area and shall state the time and place of the hearing and the fact that any changes in the boundaries of the public transportation benefit area will be considered at such time and place. At such hearing or any continuation thereof, any interested person may appear and be heard on all matters relating to the effect of the formation of the proposed public transportation benefit area.

The conference may make such changes in the boundaries of the public transportation benefit area as they shall deem reasonable and proper, but may not delete any portion of the proposed area which will create an island of included or excluded lands, and may not delete a portion of any city. If the conference shall determine that any additional territory should be included in the public transportation benefit area, a second hearing shall be held and notice given in the same manner as for the original hearing. The conference may adjourn the hearing on the formation of a public transportation benefit area from time to time not exceeding thirty days in all.

Following the conclusion of such hearing the conference shall adopt a resolution fixing the boundaries of the proposed public transportation benefit area, declaring that the formation of the proposed public transportation benefit area will be conducive to the welfare and benefit of the persons and property therein.

Within thirty days of the adoption of such conference resolution, the county legislative authority of each county wherein a conference has established proposed boundaries of a public transportation benefit area, may by resolution, upon making a legislative finding that the proposed benefit area includes portions of the county which could not be reasonably expected to benefit from such benefit area or excludes portions of the county which could be reasonably expected to benefit from its creation, disapprove and terminate the establishment of such public transportation benefit area within such county. [1977 1st ex.s. c 44 § 1; 1975 1st ex.s. c 270 § 13.]

Severability—1977 1st ex.s. c 44: "If any provision of this 1977 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." [1977 1st ex.s. c 44 § 7.]

Effective date—1977 1st ex.s. c 44: "This 1977 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, 1977." [1977 1st ex.s. c 44 § 8.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.050 Governing body—Selection, qualification, number of members—Per diem. Within sixty days of the establishment of the boundaries of the public transportation benefit area the county commissioners and elected representatives of cities within the area shall provide for the selection of the governing body of such area, the public transportation benefit area authority, which shall consist of elected officials selected by and serving at the pleasure of the governing bodies of component cities within the area and the county commissioners of each county within the area.

Within such sixty day period, the legislative body of any city may by resolution of its legislative body withdraw from participation in the public transportation benefit area. The county legislative authority and each city remaining in the public transportation benefit area may disapprove and prevent the establishment of any governing body of a public transportation benefit area if the composition thereof does not meet its approval.

In no case shall the governing body of a single county public transportation benefit area be greater than nine members and in the case of a multicounty area, fifteen members. Those cities within the transportation benefit area and excluded from direct membership on the authority are hereby authorized to designate a member of the authority who shall be entitled to represent the interests of such city which is excluded from direct membership on the authority. The legislative body of such city shall notify the authority as to the determination of its authorized representative on the authority.

Any member of the authority who is an elected official and whose office is not a full time position may receive payment for subsistence and lodging at the rate prescribed for legislators in RCW 44.04.080 as now existing or hereafter amended for each day attending official meetings of the authority. [1977 1st ex.s. c 44 § 2; 1975 1st ex.s. c 270 § 15.]

Severability—Effective date—1977 1st ex.s. c 44: See notes following RCW 36.57A.030.

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.090 Additional powers—Acquisition of existing system. A public transportation benefit area authority shall have the following powers in addition to the general powers granted by this chapter:

(1) To prepare, adopt and carry out a general comprehensive plan for public transportation service which will best serve the residents of the public transportation benefit area and to amend said plan from time to time to meet changed conditions and requirements.

(2) To acquire by purchase, condemnation, gift or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of transportation facilities and properties within or without the public transportation benefit area or the state, including systems of surface, underground or overhead railways,

tramways, buses, or any other means of local transportation except taxis, and including escalators, moving sidewalks or other people-moving systems, passenger terminal and parking facilities and properties and such other facilities and properties as may be necessary for passenger and vehicular access to and from such people-moving systems, terminal and parking facilities and properties, together with all lands, rights of way, property, equipment and accessories necessary for such systems and facilities. Public transportation facilities and properties which are owned by any city may be acquired or used by the public transportation benefit area authority only with the consent of the city council of the city owning such facilities. Cities are hereby authorized to convey or lease such facilities to a public transportation benefit area authority or to contract for their joint use on such terms as may be fixed by agreement between the city council of such city and the public transportation benefit area authority, without submitting the matter to the voters of such city.

The facilities and properties of a public transportation benefit area system whose vehicles will operate primarily within the rights of way of public streets, roads or highways, may be acquired, developed and operated without the corridor and design hearings which are required by RCW 35.58.273, as now or hereafter amended, for mass transit facilities operating on a separate right of way.

(3) To fix rates, tolls, fares and charges for the use of such facilities and to establish various routes and classes of service.

In the event any person holding a certificate of public convenience and necessity from the Washington utilities and transportation commission under RCW 81.68.040 has operated under such certificate for a continuous period of one year prior to the date of certification and is offering service within the public transportation benefit area on the date of the certification by the county canvassing board that a majority of votes cast authorize a tax to be levied and collected by the public transportation benefit area authority, such authority may by purchase or condemnation acquire at the fair market value, from the person holding the existing certificate for providing the services, that portion of the operating authority and equipment representing the services within the area of public operation. The person holding such existing certificate may require the public transportation benefit area authority to initiate such purchase of those assets of such person, existing as of the date of the county canvassing board certification, within sixty days after the date of such certification. [1977 1st ex.s. c 44 § 3; 1975 1st ex.s. c 270 § 19.]

Severability—Effective date—1977 1st ex.s. c 44: See notes following RCW 36.57A.030.

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.100 Agreements with operators of local public transportation services—Operation without agreement prohibited—Purchase or condemnation of assets. Except in accordance with an agreement made as provided in this section or in accordance with the provisions of RCW 36.57A.090(3) as now or hereafter

amended, upon the effective date on which the public transportation benefit area commences to perform the public transportation service, no person or private corporation shall operate a local public passenger transportation service within the public transportation benefit area with the exception of taxis, buses owned or operated by a school district or private school, and buses owned or operated by any corporation or organization solely for the purposes of the corporation or organization and for the use of which no fee or fare is charged.

An agreement may be entered into between the public transportation benefit area authority and any person or corporation legally operating a local public passenger transportation service wholly within or partly within and partly without the public transportation benefit area and on said effective date under which such person or corporation may continue to operate such service or any part thereof for such time and upon such terms and conditions as provided in such agreement. Such agreement shall provide for a periodic review of the terms and conditions contained therein. Where any such local public passenger transportation service will be required to cease to operate within the public transportation benefit area, the public transportation benefit area authority may agree with the owner of such service to purchase the assets used in providing such service, or if no agreement can be reached, the public transportation benefit area authority shall condemn such assets in the manner and by the same procedure as is or may be provided by law for the condemnation of other properties for cities of the first class, except insofar as such laws may be inconsistent with the provisions of this chapter.

Wherever a privately owned public carrier operates wholly or partly within a public transportation benefit area, the Washington utilities and transportation commission shall continue to exercise jurisdiction over such operation as provided by law. [1977 1st ex.s. c 44 § 4; 1975 1st ex.s. c 270 § 20.]

Severability—Effective date—1977 1st ex.s. c 44: See notes following RCW 36.57A.030.

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.160 Dissolution and liquidation. A public transportation benefit area established pursuant to this chapter may be dissolved and its affairs liquidated when so directed by a majority of persons in the benefit area voting on such question. An election placing such question before the voters may be called in the following manner:

(1) By resolution of the public transportation benefit area authority;

(2) By resolution of the county legislative body or bodies with the concurrence therein by resolution of the city council of a component city; or

(3) By petition calling for such election signed by at least ten percent of the qualified voters residing within the area filed with the auditor of the county wherein the largest portion of the public transportation benefit area is located. The auditor shall examine the same and certify to the sufficiency of the signatures thereon: *Provided*, That to be validated, signatures must have been

collected within a ninety day period as designated by the petition sponsors.

Any dissolution of a public transportation benefit area authority shall be carried out in accordance with the procedures in chapter 53.48 RCW. Any remaining deficit of the authority determined pursuant to RCW 53.48.080 shall be paid from the moneys collected from the tax source under which the authority operated. [1977 1st ex.s. c 44 § 5; 1975 1st ex.s. c 270 § 26.]

Severability—Effective date—1977 1st ex.s. c 44: See notes following RCW 36.57A.030.

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

Chapter 36.59 HOMESITE LANDS

Sections

36.59.300 through 36.59.430 Repealed.

36.59.300 through 36.59.430 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 36.63 JAILS

Sections

36.63.010 through 36.63.440 Repealed.
36.63.450 Decodified.
36.63.460 Decodified.

36.63.010 through 36.63.440 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

36.63.450 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

36.63.460 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 36.63A CITY AND COUNTY JAIL ACT OF 1974

Sections

36.63A.010 through 36.63A.060 Repealed.
36.63A.900 through 36.63A.910 Repealed.

36.63A.010 through 36.63A.060 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

• **36.63A.900 through 36.63A.910 Repealed.** See Supplementary Table of Disposition of Former RCW Sections, this volume.

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Chapter 36.69 RECREATION DISTRICTS ACT

Sections

36.69.140 Excess levies authorized—Bonds—Interest bearing warrants.

36.69.140 Excess levies authorized—Bonds—Interest bearing warrants. A park and recreation district shall not have power to levy a regular property tax levy, but it shall have the power to levy an excess levy upon the property included within the district, in the manner prescribed by Article VII, section 2, of the Constitution and by RCW 84.52.052. Such excess levy may be either for operating funds or for capital outlay, or for a cumulative reserve fund. A park and recreation district may issue general obligation bonds for capital purposes only, not to exceed an amount, together with any outstanding general obligation indebtedness equal to three-eighths of one percent of the value of the taxable property within such district, as the term "value of the taxable property" is defined in RCW 39.36.015, and may provide for the retirement thereof by levies in excess of dollar rate limitations in accordance with the provisions of RCW 84.52.056: *Provided*, That when authorized by the voters of the district, the district may issue interest bearing warrants payable out of and to the extent of excess levies authorized in the year in which the excess levy was approved. [1977 1st ex.s. c 90 § 1; 1973 1st ex.s. c 195 § 40; 1970 ex.s. c 42 § 20; 1969 c 26 § 5; 1967 c 63 § 5; 1963 c 4 § 36.69.140. Prior: 1961 c 272 § 5; 1959 c 304 § 6; 1957 c 58 § 14.]

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.

Chapter 36.70 PLANNING ENABLING ACT

Sections

36.70.970 Hearing examiner system—Adoption authorized—Alternative—Functions—Procedures.

36.70.970 Hearing examiner system—Adoption authorized—Alternative—Functions—Procedures. As an alternative to those provisions of this chapter relating to powers or duties of the planning commission to hear and issue recommendations on applications for plat approval and applications for amendments to the zoning ordinance, the county legislative authority may adopt a hearing examiner system under which a hearing examiner or hearing examiners may hear and issue decisions on proposals for plat approval and for amendments to the zoning ordinance when the amendment which is applied for is not of general applicability. In addition, the legislative authority may vest in a hearing examiner the power to hear and decide conditional use applications, variance applications, applications for shoreline permits or any other class of applications for or pertaining to land uses. The legislative authority shall prescribe procedures to be followed by a hearing examiner.

Any county which vests in a hearing examiner the authority to hear and decide conditional uses and variances shall not be required to have a zoning adjuster or board of adjustment.

Each county legislative authority electing to use a hearing examiner pursuant to this section shall by ordinance specify the legal effect of the decisions made by the examiner. Such legal effect may vary for the different classes of applications decided by the examiner but shall include one of the following:

(1) The decision may be given the effect of a recommendation to the legislative authority;

(2) The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative authority.

Each final decision of a hearing examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Such findings and conclusions shall also set forth the manner in which the decision would carry out and conform to the county's comprehensive plan and the county's development regulations. Each final decision of a hearing examiner, unless a longer period is mutually agreed to in writing by the applicant and the hearing examiner, shall be rendered within ten working days following conclusion of all testimony and hearings. [1977 1st ex.s. c 213 § 3.]

Severability—1977 1st ex.s. c 213: See note following RCW 35.63.130.

Chapter 36.72 PRINTING

Sections

36.72.010	through 36.72.070 Repealed.
36.72.071	All county officers to use official county newspaper.
36.72.075	Official county newspaper.

36.72.010 through 36.72.070 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

36.72.071 All county officers to use official county newspaper. All county officers shall cause all legal notices and delinquent tax lists to be advertised in the official county newspaper designated by the county legislative authority. [1977 c 34 § 1.]

36.72.075 Official county newspaper. At its first April meeting, the county legislative authority shall let a contract to a legal newspaper qualified under this section to serve as the official county newspaper for the term of one year beginning on the first day of July following. If there be at least one legal newspaper published in the county, the contract shall be let to a legal newspaper published in the county. If there be no legal newspaper published in the county, the county legislative authority shall let the contract to a legal newspaper published in an adjacent county and having general circulation in the county.

When two or more legal newspapers are qualified under the provisions of this section to be the official county newspaper, the county auditor shall advertise, at

least five weeks before the meeting at which the county legislative authority shall let the contract for the official county newspaper, for bid proposals to be submitted by interested qualified legal newspapers. Advertisement of the opportunity to bid shall be mailed to all qualified legal newspapers and shall be published once in the official county newspaper. The advertisement may designate the form which notices shall take, and may require that the successful bidder provide a bond for the correct and faithful performance of the contract.

The county legislative authority shall let the contract to the best and lowest responsible bidder, giving consideration to the question of circulation in awarding the contract, with a view to giving publication of notices the widest publicity. [1977 c 34 § 2.]

Chapter 36.75

ROADS AND BRIDGES—GENERAL PROVISIONS

Sections

36.75.090	Abandoned state highways.
36.75.243	Curb ramps for physically handicapped.
36.75.260	Annual report to director of highways.

36.75.090 Abandoned state highways. All public highways in this state which have been a part of the route of a state highway and have been or may hereafter be no longer necessary as such, if situated outside of the limits of incorporated cities or towns, shall, upon certification thereof by the state highway commission to the board of the county in which any portion of such highway is located, be and become a county road of such county, and if situated within the corporate limits of any city or town shall upon certification thereof by the state highway commission to the mayor of the city or town in which any portion of such highway is located be and become a street of such city or town. Upon such certification the director of highways shall execute a deed, which shall be duly acknowledged, conveying such abandoned highway or portion thereof to the county or city as the case may be. [1977 1st ex.s. c 78 § 4; 1963 c 4 § 36.75.090. Prior: 1955 c 361 § 4; prior: 1953 c 57 § 1; 1945 c 125 § 1, part; 1937 c 187 § 10, part; Rem. Supp. 1945 § 6450-10, part.]

Reviser's note: Powers, duties, and functions of highway commission and director of highways transferred to department of transportation; see RCW 47.01.031. Term "state highway commission" means department of transportation; term "director of highways" means secretary of transportation; see RCW 47.04.015.

36.75.243 Curb ramps for physically handicapped. See RCW 35.68.075, 35.68.076.

36.75.260 Annual report to director of highways. The board of each county shall on or before March 31st of each year submit such records and reports to the director, on forms furnished by the highway commission, as are necessary to enable the director to compile an annual report on county highway operations. [1977 c 75 § 31; 1963 c 4 § 36.75.260. Prior: 1943 c 82 § 8; 1937 c 187 § 58; Rem. Supp. 1943 § 6450-58.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "highway commission" means department of transportation; see RCW 47.04.015.

Chapter 36.77

ROADS AND BRIDGES—CONSTRUCTION

Sections

36.77.060 Minor projects by day labor.

36.77.060 Minor projects by day labor. The board may cause any county road to be constructed or improved by day labor in an amount not to exceed twenty-five thousand dollars on any one project: *Provided*, That when the construction or improvement is the installation of electrical traffic control devices, highway illumination equipment, electrical equipment, wires, or equipment to convey electrical current, then such amount shall not exceed ten thousand dollars for any one project, including labor, equipment, and materials. This section shall be construed to mean a complete project and shall not be construed to allow or permit the construction of any project by day labor by division thereof into units of work or classes of work. All construction work to be performed at a cost in excess of twenty-five thousand dollars shall be performed by contract as in this chapter provided: *Provided*, That when the construction work is the installation of electrical traffic control devices, highway illumination equipment, electrical equipment, wires, or equipment to convey electrical current, in an amount exceeding ten thousand dollars for any one project, such work shall be performed by contract as in this chapter provided. [1977 1st ex.s. c 32 § 1; 1963 c 4 § 36.77.060. Prior: 1949 c 156 § 9, part; 1943 c 82 § 4, part; 1937 c 187 § 34, part; Rem. Supp. 1949 § 6450-34, part.]

Chapter 36.78

ROADS AND BRIDGES—COUNTY ROAD ADMINISTRATION BOARD

Sections

36.78.070 Duties of board.
36.78.090 Certificates of good practice—Withholding of motor vehicle tax distribution.
36.78.100 Conditional certificates.

36.78.070 Duties of board. The county road administration board shall:

- (1) Establish by regulation, standards of good practice for county road administration.
- (2) Establish reporting requirements for counties with respect to the standards of good practice adopted by the board.
- (3) Receive and review reports from counties and reports of the county road administration engineer to determine compliance with legislative directives and the standards of good practice adopted by the board.
- (4) Report annually on the first day of July to the state highway commission, the legislative transportation committee, and the house and senate transportation

committees on the status of county road administration in each county. The annual report shall contain recommendations for improving administration of the county road programs. [1977 1st ex.s. c 235 § 4; 1965 ex.s. c 120 § 7.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "state highway commission" means department of transportation; see RCW 47.04.015.

36.78.090 Certificates of good practice—Withholding of motor vehicle tax distribution. (1) The board prior to May 1st of each year shall transmit to the state treasurer certificates of good practice on behalf of the counties which during the preceding calendar year:

(a) Have submitted to the state highway commission or to the board all reports required by law or regulation of the board; and

(b) Have reasonably complied with provisions of law relating to county road administration and with the standards of good practice as formulated and adopted by the board.

(2) The board shall not transmit to the state treasurer a certificate of good practice on behalf of any county failing to meet the requirements of subsection (1) of this section, but the board shall in such case and before May 1st, notify the county and the state treasurer of its reasons for withholding the certificate.

(3) The state treasurer, upon receiving a notice that a certificate of good practice will not be issued on behalf of a county, or that a previously issued certificate of good practice has been revoked, shall, effective the first day of the month subsequent to that in which notice is received, withhold from such county its share of motor vehicle fuel taxes distributable pursuant to RCW 46.68-.120 until the board thereafter issues on behalf of such county a certificate of good practice or a conditional certificate. After withholding or revoking a certificate of good practice with respect to any county, the board may thereafter at any time issue such a certificate or a conditional certificate when the board is satisfied that the county has complied or is diligently attempting to comply with the requirements of subsection (1) of this section.

(4) The board may, upon notice and a hearing, revoke a previously issued certificate of good practice or substitute a conditional certificate therefor when, after issuance of a certificate of good practice, any county fails to meet the requirements of subsection (1) (a) and (b) of this section, but the board shall in such case notify the county and the state treasurer of its reasons for the revocation or substitution.

(5) Motor vehicle fuel taxes withheld from any county pursuant to this section shall not be distributed to any other county, but shall be retained in the motor vehicle fund to the credit of the county originally entitled thereto. Whenever the state treasurer receives from the board a certificate of good practice issued on behalf of such county he shall distribute to such county all of the funds theretofore retained in the motor vehicle fund to the credit of such county. [1977 1st ex.s. c 257 § 1; 1965 ex.s. c 120 § 9.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "state highway commission" means department of transportation; see RCW 47.04.015.

36.78.100 Conditional certificates. Whenever the board finds that a county has failed to submit the reports required by RCW 36.78.090, or has failed to comply with provisions of law relating to county road administration or has failed to meet the standards of good practice as formulated and adopted by the board, the board may in lieu of withholding or revoking a certificate of good practice issue and transmit to the state treasurer on behalf of such county a conditional certificate which will authorize the continued distribution to such county all or a designated portion of its share of motor vehicle fuel taxes. The issuance of such a conditional certificate shall be upon terms and conditions as shall be deemed by the board to be appropriate. In the event a county on whose behalf a conditional certificate is issued fails to comply with the terms and conditions of such certificate, the board may forthwith cancel or modify such certificate notifying the state treasurer thereof. In such case the state treasurer shall thereafter withhold from such county all or the designated portion of its share of the motor vehicle fuel taxes as provided in RCW 36.78.090. [1977 1st ex.s. c 257 § 2; 1965 ex.s. c 120 § 10.]

Chapter 36.82

ROADS AND BRIDGES—FUNDS—BUDGET

Sections

36.82.220 Repealed.
36.82.230 Repealed.

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

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

Chapter 36.94

SEWERAGE, WATER AND DRAINAGE SYSTEMS

Sections

36.94.305 Service fees for sewers not constructed within ten years after voter approval—Credit against future assessments, service charges.

36.94.305 Service fees for sewers not constructed within ten years after voter approval—Credit against future assessments, service charges. See RCW 35.43.260.

Title 38

MILITIA AND MILITARY AFFAIRS

Chapters

38.12 Militia officers and advisory council.
38.52 Emergency services.

Chapter 38.12

MILITIA OFFICERS AND ADVISORY COUNCIL

Sections

38.12.020 Powers and duties.

38.12.020 Powers and duties. (1) The adjutant general shall keep rosters of all active, reserve, and retired officers of the militia, and all other records, and papers required to be kept and filed therein, and shall submit to the governor such reports of the operations and conditions of the organized militia as the governor may require.

(2) He shall cause the military law, and such other military publications as may be necessary for the military service, to be prepared and distributed at the expense of the state, to the commissioned officers of the organized militia.

(3) He shall keep just and true accounts of all moneys received and disbursed by him.

(4) He shall attest all commissions issued to military officers of this state.

(5) He shall make out and transmit all militia reports, returns, and communications prescribed by acts of congress or by direction of the War Department.

(6) He shall have a seal, and all copies, orders, records, and papers in his office, duly certified and authenticated under the seal, shall be evidence in all cases in like manner as if the originals were produced. The seal now used in the office of the adjutant general shall be the seal of his office and shall be delivered by him to his successor. All orders issued from his office shall be authenticated with the seal.

(7) He shall make such regulations pertaining to the preparation of reports and returns and to the use, maintenance, care, and preservation of property in possession of the state for military purposes, whether belonging to the state or to the United States, as in his opinion the conditions demand.

(8) He shall attend to the care, preservation, safe-keeping, and repairing of the arms, ordinance, accoutrements, equipment, and all other military property belonging to the state, or issued to the state by the United States for military purposes, and keep accurate accounts thereof. Any property of the state military department which, after proper inspection, is found unsuitable or no longer needed for use of the state military forces, shall be disposed of in such manner as the governor shall direct and the proceeds thereof used for replacements in kind or by other needed authorized military supplies, and the adjutant general may execute the necessary instruments of conveyance to effect such sale or disposal.

(9) He shall issue the military property as the necessity of service requires and make purchases for that purpose. No military property shall be issued or loaned to persons or organizations other than those belonging to the militia, except in an emergency and then only with the approval of the adjutant general.

(10) He shall keep on file in his office the reports and returns of military units, and all other writings and

papers required to be transmitted to and preserved at the general headquarters of the state militia.

(11) He shall keep all records of volunteers commissioned or enlisted for all wars or insurrections, and of individual claims of citizens for service rendered in these wars or insurrections, and he shall also be the custodian of all records, relics, trophies, colors, and histories relating to such wars now in possession of, or which may be acquired by the state.

(12) He shall establish and maintain as part of his office a bureau of records of the services of the organized militia of the state, and upon request furnish a copy thereof or extract therefrom, attested under seal of his office, and such attested copy shall be prima facie proof of service, birthplace, and citizenship.

(13) He shall keep a record of all real property owned or used by the state for military purposes, and in connection therewith he shall have sole power to execute all leases to acquire the use of real property by the state for military purposes, or lease it to other agencies for use for authorized activities. He shall also have full power to execute and grant easements for rights of way for construction, operation, and maintenance of utility service, water, sewage, and drainage for such realty. [1977 c 75 § 32; 1957 c 250 § 3. Prior: 1943 c 130 § 16, part; 1917 c 107 § 11, part; 1913 c 66 § 4, part; 1909 c 134 § 27, part; 1901 c 78 § 4, part; 1895 c 108 § 38, part; Rem. Supp. 1943 § 8603-16, part.]

**Chapter 38.52
EMERGENCY SERVICES**

Sections
38.52.205 Claims arising from emergency service related activities—Filing—Contents.

38.52.205 Claims arising from emergency service related activities—Filing—Contents. All claims against the state for property damages or indemnification therefor arising from emergency service related activities will be presented to and filed with the chief fiscal officer of the executive branch. Contents of all such claims shall conform to the tort claim filing requirements found in RCW 4.92.100 as now or hereafter amended. [1977 1st ex.s. c 144 § 6; 1974 ex.s. c 171 § 24; 1971 ex.s. c 8 § 4.]

"Chief fiscal officer of the executive branch" defined: RCW 43.41.108.

**Title 39
PUBLIC CONTRACTS AND
INDEBTEDNESS**

Chapters
39.04 Public works.
39.08 Contractor's bond.

39.12 Prevailing wages on public works.
39.16 Resident employees on public works.
39.20 Employment of certain aliens.
39.23 Purchase of products and services of sheltered workshops, DSHS programs.
39.32 Purchase of federal property.
39.34 Interlocal cooperation act.
39.44 Bonds—Form, terms of sale, payment, etc.
39.53 Refunding bond act.
39.58 Public funds—Deposits and investments—Public depositaries.
39.90 Validation of bonds and financing proceedings.

**Chapter 39.04
PUBLIC WORKS**

Sections
39.04.010 Definitions.

39.04.010 Definitions. The term state shall include the state of Washington and all departments, supervisors, commissioners and agencies thereof.

The term municipality shall include every city, county, town, district or other public agency thereof which is authorized by law to require the execution of public work, except drainage districts, diking districts, diking and drainage improvement districts, drainage improvement districts, diking improvement districts, consolidated diking and drainage improvement districts, consolidated drainage improvement districts, consolidated diking improvement districts, irrigation districts or any such other districts as shall from time to time be authorized by law for the reclamation or development of waste or undeveloped lands.

The term public work shall include all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein, but nothing herein shall apply to the construction, alteration, repair, or improvement of any municipal street railway system. All public works, including maintenance when performed by contract shall comply with the provisions of RCW 39.12.020.

The term contract shall mean a contract in writing for the execution of public work for a fixed or determinable amount duly awarded after advertisement and competitive bid.

Cost of superintendence, engineering, clerical and accounting service shall include all expenditures specially incurred for such service, and shall include a proportionate charge for the time of all salaried officers, engineers, clerks, accountants and employees of the state or municipality while engaged in such work or in keeping or preparing the estimates, accounts and records thereof. [1977 1st ex.s. c 177 § 1; 1923 c 183 § 1; RRS § 10322-1.]

**Chapter 39.08
CONTRACTOR'S BOND**

Sections

- 39.08.030 Conditions of bond—Notice of claim—Action on bond—Attorney's fees.
- 39.08.090 Ferry construction—Amount of contractor's bond.

39.08.030 Conditions of bond—Notice of claim—Action on bond—Attorney's fees. The bond mentioned in RCW 39.08.010 shall be in an amount equal to the full contract price agreed to be paid for such work or improvement, and shall be to the state of Washington, except as otherwise provided in RCW 39.08.090, and except in cases of cities and towns, in which cases such municipalities may by general ordinance fix and determine the amount of such bond and to whom such bond shall run: *Provided*, The same shall not be for a less amount than twenty-five percent of the contract price of any such improvement, and may designate that the same shall be payable to such city, and not to the state of Washington, and all such persons mentioned in RCW 39.08.010 shall have a right of action in his, her, or their own name or names on such bond for work done by such laborers or mechanics, and for materials furnished or provisions and goods supplied and furnished in the prosecution of such work, or the making of such improvements: *Provided*, That such persons shall not have any right of action on such bond for any sum whatever, unless within thirty days from and after the completion of the contract with an acceptance of the work by the affirmative action of the board, council, commission, trustees, officer, or body acting for the state, county or municipality, or other public body, city, town or district, the laborer, mechanic or subcontractor, or materialman, or person claiming to have supplied materials, provisions or goods for the prosecution of such work, or the making of such improvement, shall present to and file with such board, council, commission, trustees or body acting for the state, county or municipality, or other public body, city, town or district, a notice in writing in substance as follows:

To (here insert the name of the state, county or municipality or other public body, city, town or district):

Notice is hereby given that the undersigned (here insert the name of the laborer, mechanic or subcontractor, or materialman, or person claiming to have furnished labor, materials or provisions for or upon such contract or work) has a claim in the sum of _____ dollars (here insert the amount) against the bond taken from _____ (here insert the name of the principal and surety or sureties upon such bond) for the work of _____ (here insert a brief mention or description of the work concerning which said bond was taken).

(here to be signed) _____

Such notice shall be signed by the person or corporation making the claim or giving the notice, and said notice, after being presented and filed, shall be a public record open to inspection by any person, and in any suit or action brought against such surety or sureties by any such person or corporation to recover for any of the

items hereinbefore specified, the claimant shall be entitled to recover in addition to all other costs, attorney's fees in such sum as the court shall adjudge reasonable: *Provided, however*, That no attorney's fees shall be allowed in any suit or action brought or instituted before the expiration of thirty days following the date of filing of the notice hereinbefore mentioned: *Provided further*, That any city may avail itself of the provisions of RCW 39.08.010 through 39.08.030, notwithstanding any charter provisions in conflict herewith: *And provided further*, That any city or town may impose any other or further conditions and obligations in such bond as may be deemed necessary for its proper protection in the fulfillment of the terms of the contract secured thereby, and not in conflict herewith. [1977 1st ex.s. c 166 § 4; 1915 c 28 § 2; 1909 c 207 § 3; RRS § 1161. Prior: 1899 c 105 § 1; 1888 p 16 § 3. Formerly RCW 39.08.030 through 39.08.060.]

Severability—1977 1st ex.s. c 166: See notes following RCW 47.60.650.

39.08.090 Ferry construction—Amount of contractor's bond. The contractor's bond required by chapter 39.08 RCW in connection with any negotiated contract for the construction of one or more ferry vessels for the Washington state ferries shall be in an amount to be specified by the Washington state toll bridge authority in the request for proposal provided for in RCW 47.60.650. In no event shall the bond be for more than twenty-five percent of the total contract price of two or more ferry vessels nor more than fifty percent of the total contract price for a single vessel. In determining and fixing the amount of such bond the authority may take into account the financial resources required of all firms which prequalify to construct ferry vessels for the Washington state ferries, the number of vessels which may be constructed, and the time period in which the vessels are to be constructed.

The Washington state toll bridge authority may delegate to the department of highways any of the powers or duties conferred upon the authority by this section, and the department shall assume or perform those powers or duties. [1977 1st ex.s. c 166 § 3.]

Reviser's note: Powers, duties, and functions of toll bridge authority transferred to department of transportation; see RCW 47.01.031. Term "Washington toll bridge authority" means department of transportation; see RCW 47.04.015.

Severability—1977 1st ex.s. c 166: See notes following RCW 47.60.650.

Chapter 39.12

PREVAILING WAGES ON PUBLIC WORKS

Sections

- 39.12.050 Penalty for false certificate—Unpaid wages lien against contractor's bond—Prohibitions on bidding on future contracts—Hearing.

39.12.050 Penalty for false certificate—Unpaid wages lien against contractor's bond—Prohibitions on bidding on future contracts—Hearing. (1) Any contractor or subcontractor who shall upon oath verify any

statement required to be filed under this chapter which is known by said person to be false, or is made without knowledge and in reckless disregard of the truth, shall, after a finding to that effect in a hearing held by the director of the department of labor and industries, subject to the provisions of chapter 34.04 RCW, be subject to a civil penalty not to exceed five thousand dollars, and shall not be permitted to bid on any contract covered by the provisions of this chapter until such fine has been paid in full to the director and until all wages due pursuant to the prevailing wage requirements of RCW 39.12.020 have been paid.

To the extent that a contractor or subcontractor has not paid wages at the rate due pursuant to RCW 39.12.020, and a finding to that effect has been made as provided by this subsection, such unpaid wages shall constitute a lien of the first priority against such contractor's or subcontractor's bond according to the provisions of RCW 18.27.040.

(2) If a contractor or subcontractor is found to have violated the provisions of subsection (1) of this section for a second or subsequent time within a five year period, said contractor or subcontractor shall be subject to the sanctions prescribed in subsection (1) of this section and shall, at the discretion of the director of the department of labor and industries, be prohibited from bidding on any contract covered by the provisions of this chapter for a period of one year from the date of notice by the director of his findings that said contractor or subcontractor has violated the provisions of subsection (1) of this section for a second or subsequent time within a five year period, or during the period of any appeal thereof, in which event the one year period shall commence from the date of the final determination from any appeal taken of the director's findings, but in no event shall any contractor or subcontractor be allowed to bid on any contract covered by the provisions of this chapter until the fine prescribed by subsection (1) of this section has been paid to the director and until all wages due pursuant to the prevailing wage requirement of RCW 39.12.020 have been paid.

The director shall issue his findings that a contractor or subcontractor has violated the provisions of this subsection after a hearing held subject to the provisions of chapter 34.04 RCW. [1977 1st ex.s. c 71 § 1; 1973 c 120 § 1; 1945 c 63 § 5; Rem. Supp. 1945 § 10322-24.]

Chapter 39.16

RESIDENT EMPLOYEES ON PUBLIC WORKS

Sections

39.16.005	Employment of resident employees—Percentage specified—Wages.
39.16.020	Procedure when resident labor unavailable.

39.16.005 Employment of resident employees—Percentage specified—Wages. In all contracts let by the state, or any department thereof, or any county, city,

town, municipality, or other political subdivision for the erection, construction, alteration, demolition, or repair of any public building, structure, bridge, highway, or any other kind of public work or improvement, the contractor or subcontractor shall employ ninety-five percent or more bona fide Washington residents as employees where more than forty persons are employed, and ninety percent or more bona fide Washington residents as employees where forty or less persons are employed: *Provided*, That such limitations shall not apply to that portion of any contract in which a manufacturer's warranty on equipment is contingent upon the manufacturer's use of his own factory-trained personnel for installation or repair which places such equipment under warranty. The contractor shall pay the standard prevailing wages for the specific type of construction as determined by the United States department of labor in the city or county where the work is being performed. The term "resident", as used in this chapter, shall mean any person who has been a bona fide resident of the state of Washington for a period of ninety days prior to such employment: *Provided*, That in contracts involving the expenditure of federal aid funds this chapter shall not be enforced in such manner to conflict with or be contrary to the federal statutes, rules, and regulations prescribing a labor preference to honorably discharged soldiers, sailors, and marines, or prohibiting as unlawful any other preference or discrimination among the citizens of the United States: *Provided further*, That this section shall not apply to any employees who are residents of any state bordering on the state of Washington if such bordering state does not restrict the right of a resident of Washington to be employed in the performance of all contracts let by the bordering state, or any department thereof, or any county, city, town, municipality, or other political subdivision for the erection, construction, alteration, demolition, or repair of any public building, structure, bridge, highway, or any other kind of public work or improvement. [1977 1st ex.s. c 187 § 1; 1973 1st ex.s. c 29 § 1; 1972 ex.s. c 28 § 1.]

39.16.020 Procedure when resident labor unavailable. In the event a sufficient number of Washington residents who are qualified by training or experience to perform such work shall not be available, the contractor or subcontractor shall immediately notify the public body with whom the contract has been executed of such facts, and shall state the number of nonresidents needed. The public body shall immediately investigate the facts and if the conditions are as stated the public body shall, by a written order, designate the number of nonresidents and the period for which they may be employed: *Provided*, That should residents who are qualified by training or experience to perform such work become available within the period, such qualified residents shall be employed within a reasonable time and the period shortened consistent with the supply of qualified resident labor. [1977 1st ex.s. c 187 § 2; 1943 c 246 § 2; Rem. Supp. 1943 § 10322-10b.]

Chapter 39.20

EMPLOYMENT OF CERTAIN ALIENS

Sections

39.20.010 through 39.20.040 Repealed.

39.20.010 through 39.20.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 39.23

PURCHASE OF PRODUCTS AND SERVICES OF SHELTERED WORKSHOPS, DSHS PROGRAMS

Sections

39.23.020 Products and/or services, purchase of—Authorization—Determining fair market price.

39.23.020 Products and/or services, purchase of—Authorization—Determining fair market price. Municipalities are hereby authorized to purchase products and/or services manufactured or provided by sheltered workshops and programs of the department of social and health services. Such purchases shall be at the fair market price of such products and services as determined by a municipality. To determine the fair market price a municipality shall use the last comparable bid on the products and/or services or in the alternative the last price paid for the products and/or services. The increased cost of labor, materials, and other documented costs since the last comparable bid or the last price paid are additional cost factors which shall be considered in determining fair market price. Upon the establishment of the fair market price as provided for in this section a municipality is hereby empowered to negotiate directly with sheltered workshops or officials in charge of the programs of the department of social and health services for the purchase of the products or services. [1977 1st ex.s. c 10 § 1; 1975 c 20 § 3.]

Chapter 39.32

PURCHASE OF FEDERAL PROPERTY

Sections

39.32.010 Definitions.
 39.32.020 Acquisition of surplus property authorized.
 39.32.035 Administration and use of revolving fund—Director's authority to lease and acquire surplus property.
 39.32.040 Procedure to purchase—Requisitions—Price at which sold—Disposition of proceeds—Duties of governor.
 39.32.060 Rules and regulations.

39.32.010 Definitions. For the purposes of RCW 39.32.010 through 39.32.060:

The term "eligible donee" means any public agency carrying out or promoting for the residents of a given political area one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, and public safety; or nonprofit educational or public health institutions or organizations, such as medical institutions, hospitals, clinics,

health centers, schools, colleges, universities, schools for the mentally retarded, schools for the physically handicapped, child care centers, radio and television stations licensed by the federal communications commission as educational radio or educational television stations, museums attended by the public, and public libraries serving all residents of a community, district, state, or region, and which are exempt from taxation under Section 501 of the Internal Revenue Code of 1954, for purposes of education or public health, including research for any such purpose.

The term "public agency" means the state or any subdivision thereof, including any unit of local government, economic development district, emergency services organization, or any instrumentality created by compact or other agreement between the state and a political subdivision, or any Indian tribe, band, group, or community located on a state reservation.

The term "surplus property" means any property, title to which is in the federal government or any department or agency thereof, and which property is to be disposed of as surplus under any act of congress heretofore or hereafter enacted providing for such disposition. [1977 1st ex.s. c 135 § 1; 1967 ex.s. c 70 § 1; 1945 c 205 § 1; Rem. Supp. 1945 § 10322-60.]

39.32.020 Acquisition of surplus property authorized. The director of general administration is hereby authorized to purchase, lease or otherwise acquire from the government of the United States or any surplus property disposal agency thereof surplus property to be used in accordance with the provisions of this chapter. [1977 1st ex.s. c 135 § 2; 1967 ex.s. c 70 § 2; 1945 c 205 § 2; Rem. Supp. 1945 § 10322-61.]

Authority of superintendent of public instruction to acquire federal surplus or donated food commodities for school district hot lunch program: Chapter 28A.30 RCW.

39.32.035 Administration and use of revolving fund—Director's authority to lease and acquire surplus property. The surplus property purchase revolving fund shall be administered by the director of general administration and be used for the purchase, lease or other acquisition from time to time of surplus property from any federal surplus property disposal agency. The director may purchase, lease or acquire such surplus property on the requisition of an eligible donee and without such requisition at such time or times as he deems it advantageous to do so; and in either case he shall be responsible for the care and custody of the property purchased so long as it remains in his possession. [1977 1st ex.s. c 135 § 3; 1967 ex.s. c 70 § 4; 1945 c 205 § 4; Rem. Supp. 1945 § 10322-63. Formerly RCW 39.32.030, part.]

39.32.040 Procedure to purchase—Requisitions—Price at which sold—Disposition of proceeds—Duties of governor. In purchasing surplus property on requisition for any eligible donee the director may advance the purchase price thereof from the surplus property purchase revolving fund, and he shall then in due course bill the proper eligible donee for the amount paid by him for the property plus a reasonable

amount to cover the expense incurred by him in connection with the transaction. In purchasing surplus property without requisition, the director shall be deemed to take title outright and he shall then be authorized to resell from time to time any or all of such property to such eligible donees as desire to avail themselves of the privilege of purchasing. All moneys received in payment for surplus property from eligible donees shall be deposited by the director in the surplus property purchase revolving fund. The director shall sell surplus property to eligible donees at a price sufficient only to reimburse the surplus property purchase revolving fund for the cost of the property to the fund, plus a reasonable amount to cover expenses incurred in connection with the transaction. Where surplus property is transferred to an eligible donee without cost to the transferee, the director may impose a reasonable charge to cover expenses incurred in connection with the transaction. The governor, through the director of general administration, shall administer the surplus property program in the state and shall perform or supervise all those functions with respect to the program, its agencies and instrumentalities. [1977 1st ex.s. c 135 § 4; 1967 ex.s. c 70 § 5; 1945 c 205 § 5; Rem. Supp. 1945 § 10322-64.]

39.32.060 Rules and regulations. The director of general administration shall have power to promulgate such rules and regulations as may be necessary to effectuate the purposes of RCW 39.32.010 through 39.32.060 and to carry out the provisions of the Federal Property and Administrative Services Act of 1949, as amended. [1977 1st ex.s. c 135 § 5; 1967 ex.s. c 70 § 6; 1945 c 205 § 7; Rem. Supp. 1945 § 10322-66.]

Chapter 39.34

INTERLOCAL COOPERATION ACT

Sections

- 39.34.020 Definitions.
39.34.085 Agreements for operation of bus services.

39.34.020 Definitions. For the purposes of this chapter, the term "public agency" shall mean any city, town, county, public utility district, irrigation district, port district, fire protection district, school district, educational service district, air pollution control authority, rural county library districts, intercounty rural library districts, public hospital districts, regional planning agency created by any combination of county and city governments, health department or district, weed control district, county transit authority, Indian tribe recognized as such by the federal government, or metropolitan municipal corporation of this state; any agency of the state government or of the United States; and any political subdivision of another state.

The term "state" shall mean a state of the United States. [1977 1st ex.s. c 283 § 13; 1975 1st ex.s. c 115 § 1; 1973 c 34 § 1; 1971 c 33 § 1; 1969 c 88 § 1; 1969 c 40 § 1; 1967 c 239 § 3.]

Severability—1977 1st ex.s. c 283: See notes following RCW 28A.21.010.

39.34.085 Agreements for operation of bus services. In addition to the other powers granted by chapter 39.34 RCW, one or more cities or towns or a county, or any combination thereof, may enter into agreements with each other or with a public transportation agency of a contiguous state, or contiguous Canadian province, to allow a city or such other transportation agency to operate bus service for the transportation of the general public within the territorial boundaries of such city and/or county or to allow such city and/or county to operate such bus service within the jurisdiction of such other public agency when no such existing bus certificate of public convenience and necessity has been authorized by the Washington utilities and transportation commission: *Provided, however,* That such transportation may extend beyond the territorial boundaries of either party to the agreement if the agreement so provides, and if such service is not in conflict with existing bus service authorized by the Washington utilities and transportation commission. The provisions of this section shall be cumulative and nonexclusive and shall not affect any other right granted by this chapter or any other provision of law. [1977 c 46 § 1; 1969 ex.s. c 139 § 1.]

Chapter 39.44

BONDS—FORM, TERMS OF SALE, PAYMENT, ETC.

Sections

- 39.44.140 Revenue bonds—Funds for reserve purposes may be included in issue amount.

39.44.140 Revenue bonds—Funds for reserve purposes may be included in issue amount. Any county, city, town, political subdivision, or municipal corporation authorized to issue revenue bonds may include in the amount of any such issue funds for the purpose of establishing, maintaining or increasing reserves to:

- (1) Secure the payment of the principal of and interest on such revenue bonds; or
- (2) Provide for replacements or renewals of or repairs or betterments to revenue producing facilities; or
- (3) Provide for contingencies, including, but not limited to, loss of revenue caused by such contingencies.

The authority granted pursuant to this section is additional and supplemental to any existing authority to issue revenue bonds and nothing in this section shall prevent the issuance of such bonds pursuant to any other law: *Provided,* That no such bond issue may include an amount in excess of fifteen percent thereof for the purpose of establishing, maintaining or increasing reserves as enumerated above. [1977 1st ex.s. c 229 § 1.]

Chapter 39.53

REFUNDING BOND ACT

Sections

- 39.53.020 Issuance authorized—Purposes—Saving to public body, criteria.
39.53.040 What bonds may be refunded—Advance refunding, redemption of refunding bonds.

- 39.53.050 Refunding bonds, principal amount—Disposition of reserves held to secure the bonds to be refunded.
 39.53.921 Severability—1977 1st ex.s. c 262.

39.53.020 Issuance authorized—Purposes—

Saving to public body, criteria. The governing body of any public body may by ordinance provide for the issuance of bonds without an election to refund outstanding bonds heretofore or hereafter issued by such public body or its predecessor, only (1) in order to pay or discharge all or any part of such outstanding series or issue of bonds, including any interest thereon, in arrears or about to become due and for which sufficient funds are not available, (2) when necessary or in the best interest of the public body in order to modify debt service or reserve requirements, sources of payment, covenants, or other terms of the bonds to be refunded, or (3) in order to effect a saving to the public body. To determine whether or not a saving will be effected, consideration shall be given to the interest to fixed maturities of the refunding bonds and the bonds to be refunded, the costs of issuance of the refunding bonds, including any sale discount, the redemption premiums, if any, to be paid, and the known earned income from the investment of the refunding bond proceeds pending redemption of the bonds to be refunded. [1977 1st ex.s. c 262 § 1; 1974 ex.s. c 111 § 2; 1965 ex.s. c 138 § 3.]

Severability—1974 ex.s. c 111: See note following RCW 39.42.080.

39.53.040 What bonds may be refunded—

Advance refunding, redemption of refunding bonds. Bonds may be refunded hereunder or under any other law of this state which authorizes the issuance of refunding bonds. In any advance refunding plan under this chapter the governing body shall provide irrevocably in the ordinance authorizing the issuance of the advance refunding bonds for the redemption or payment of the bonds to be refunded.

The ordinance authorizing the issuance of advance refunding bonds pursuant to this chapter may contain such provisions for the redemption of the refunding bonds prior to maturity and for payment of a premium upon such redemption as the governing body shall determine in its discretion. [1977 1st ex.s. c 262 § 2; 1973 1st ex.s. c 25 § 3; 1965 ex.s. c 138 § 5.]

39.53.050 Refunding bonds, principal amount—

Disposition of reserves held to secure the bonds to be refunded. Refunding bonds may be issued in a principal amount in excess of the principal amount of the bonds to be refunded in an amount deemed reasonably required to effect such refunding except voted general obligation bonds. The principal amount of the refunding bonds may be less than or the same as the principal amount of the bonds being refunded so long as provision is duly and sufficiently made for the retirement or redemption of such bonds to be refunded. Any reserves held to secure the bonds to be refunded may be used to accomplish the refunding in accordance with the refunding plan. Reserves not so used shall be pledged as security for the refunding bonds to the extent the reserves, if any, are required. The balance of any such reserves may be used

for any lawful purpose. [1977 1st ex.s. c 262 § 3; 1974 ex.s. c 111 § 3; 1965 ex.s. c 138 § 6.]

Severability—1974 ex.s. c 111: See note following RCW 39.42.080.

39.53.921 Severability—1977 1st ex.s. c 262. If any provision of this 1977 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. [1977 1st ex.s. c 262 § 4.]

Chapter 39.58

PUBLIC FUNDS—DEPOSITS AND INVESTMENTS—PUBLIC DEPOSITARIES

Sections

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| 39.58.010 | Definitions. |
| 39.58.150 | Receipt, disbursement, or transfer of public funds by wire or other electronic communication means authorized. |

39.58.010 Definitions. In this chapter, unless the context otherwise requires:

(1) "Public deposit" means moneys of the state or of any county, city or town, or other political subdivision of the state or any commission, committee, board or officer thereof or any court of the state deposited in any qualified public depository, including moneys held as trustee, agent, or bailee by the state, any county, city or town, or other political subdivision of the state, or any commission, committee, board or office thereof or any court of the state, when deposited in any qualified public depository;

(2) "Qualified public depository" means a state bank or trust company, national banking association, or any branch of a bank engaged in the banking business in this state in accordance with RCW 30.04.300 which is located in this state and which receives or holds public deposits and segregates eligible collateral for public deposits as described in RCW 39.58.050 as now or hereafter amended;

(3) "Loss" means issuance of an order of supervisory authority restraining a qualified public depository from making payments of deposit liabilities or the appointment of a receiver for a qualified public depository;

(4) "Commission" means the Washington public deposit protection commission created under RCW 39.58.030;

(5) "Eligible collateral" means collateral which is eligible as security for public deposits pursuant to applicable state law;

(6) The "maximum liability" of a qualified public depository means a sum equal to ten percent of (a) all public deposits held by the qualified public depository on the then most recent call report date, or (b) the average of the balances of said public deposits on the last four immediately preceding reports required pursuant to RCW 39.58.100, whichever amount is greater, less any assessments paid to the commission pursuant to this chapter since the then most recent call report date;

(7) "Public funds available for investment" means such public funds as are in excess of the anticipated cash needs throughout the duration of the contemplated investment period;

(8) "Investment deposits" means bank time deposits and savings deposits of public funds available for investment;

(9) "Treasurer" shall mean the state treasurer, a county treasurer, a city treasurer, a treasurer of any other municipal corporation, and the custodian of any other public funds. [1977 1st ex.s. c 95 § 1; 1975 1st ex.s. c 77 § 1; 1973 c 126 § 9; 1969 ex.s. c 193 § 1.]

Reviser's note: Throughout chapter 39.58 RCW the phrase "this 1969 amendatory act" has been changed to "this chapter". "This 1969 amendatory act" [1969 ex.s. c 193] consists of chapter 39.58 RCW, the amendments by 1969 ex.s. c 193 to RCW 35.38.010-35.38.040, 36.29.020, 36.48.010, 36.48.020, 43.85.010, 43.85.030, 43.85.040, 43.85.060, 43.85.070, 43.85.150, 43.85.170, 43.85.190, and to the repeal of RCW 35.38.070-35.38.110, 36.48.030, 36.48.100-36.48.150, 43.85.050, and 43.85.080-43.85.120.

Severability—1969 ex.s. c 193: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of this act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 193 § 32.]

Construction—1969 ex.s. c 193: "Nothing in this act shall be construed so as to impair the obligation of any contract or agreement entered into prior to its effective date." [1969 ex.s. c 193 § 33.]

The foregoing annotations apply to this chapter, the amendments by 1969 ex.s. c 193 to RCW 35.38.010-35.38.040, 36.29.020, 36.48.010, 36.48.020, 43.85.010, 43.85.030, 43.85.040, 43.85.060, 43.85.070, 43.85.150, 43.85.170, 43.85.190, and to the repeal of RCW 35.38.070-35.38.110, 36.48.030, 36.48.100-36.48.150, 43.85.050, and 43.85.080-43.85.120.

City depositaries: Chapter 35.38 RCW.

County depositaries: Chapter 36.48 RCW.

State depositaries: Chapter 43.85 RCW.

39.58.150 Receipt, disbursement, or transfer of public funds by wire or other electronic communication means authorized. Notwithstanding any provision of law to the contrary, the state treasurer or any county, city, or other municipal treasurer may receive, disburse, or transfer public funds under the treasurer's jurisdiction by means of wire or other electronic communication in accordance with accounting standards which shall be established prior to July 1, 1977, by the state auditor under RCW 43.09.200 with regard to municipal treasurers or by the office of program planning and fiscal management under RCW 43.88.160 in the case of the state treasurer to safeguard and insure accountability for the funds involved. [1977 1st ex.s. c 15 § 1.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Effective date—1977 1st ex.s. c 15: "The effective date of this act shall be July 1, 1977." [1977 1st ex.s. c 15 § 2.]

Chapter 39.90

VALIDATION OF BONDS AND FINANCING PROCEEDINGS

Sections

39.90.060 Validation of debts, contracts and obligations regardless of interest rates.

39.90.060 Validation of debts, contracts and obligations regardless of interest rates. All debts, contracts and obligations heretofore made or incurred by or in favor of the state, state agencies, The Evergreen State College, community colleges, and regional and state universities, and the political subdivisions, municipal corporations and quasi municipal corporations of this state, are hereby declared to be legal and valid and of full force and effect from the date thereof, regardless of the interest rate borne by any such debts, contracts and obligations. [1977 1st ex.s. c 169 § 93; 1970 ex.s. c 66 § 7.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Title 40

PUBLIC DOCUMENTS, RECORDS AND PUBLICATIONS

Chapters

40.04 Public documents.
40.06 State publications distribution center.
40.07 Management and control of state publications.

Chapter 40.04

PUBLIC DOCUMENTS

Sections

40.04.010 Repealed.
40.04.020 Repealed.
40.04.040 Session laws—Distribution, sale, exchange—Duties of law librarian and county auditor—Surplus copies, sale, price.
40.04.090 Legislative journals—Distribution, sale, exchange—Duties of law librarian—Surplus sets, sale, price.

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

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

40.04.040 Session laws—Distribution, sale, exchange—Duties of law librarian and county auditor—Surplus copies, sale, price. Session laws shall be distributed, sold and/or exchanged by the state law librarian as follows:

(1) Copies shall be given as follows: One to each United States senator and representative in congress from this state; six to the Library of Congress; one to each United States executive department as defined by section 1, title 5, of the United States Code; three to the United States supreme court library; three to the library of the circuit court of appeals of the ninth circuit; one to each United States district court room within this state; one to each office and branch office of the United States district attorneys in this state; one to each state official whose office is created by the Constitution; one to the

judge advocate's office at Fort Lewis; one to each member of the legislature, session law indexer, secretary and assistant secretary of the senate, chief clerk and the assistant chief clerk of the house of representatives, the minute clerk and sergeant-at-arms of the two branches of the legislature of the sessions of which they occupied the offices and positions mentioned; one copy each to the Olympia representatives of the Associated Press and the United Press; two copies to the law library of the University of Puget Sound law school; two copies to the law library of Gonzaga University law school; and two copies to the law libraries of any accredited law schools as are hereafter established in this state.

(2) Copies, for official use only, shall be distributed as follows: One to each state department and to each division thereof; one to each state official whose office is created by the Constitution, except the governor who shall receive three copies; one each to the adjutant general, the state historical society, the state bar association, and to each state institution; one copy for each assistant attorney general who maintains his office in the attorney general's suite, and one additional copy for his stenographer's room; one copy to each prosecuting attorney and one for each of his deputies.

Sufficient copies shall be furnished for the use of the supreme court and the state law library as from time to time are needed. Eight copies shall be distributed to the University of Washington law library; one copy each to the offices of the president and the board of regents of the University of Washington, the dean of the University of Washington school of law, and to the University of Washington library; one copy to the library of each of the regional universities and to The Evergreen State College; one copy each to the president of the Washington State University and to the Washington State University library. Six copies shall be sent to the King county law library, and one copy to each of the county law libraries organized pursuant to law in the counties of the first, second and third class; one copy to each public library in cities of the first class, and one copy to the municipal reference branch of the Seattle public library.

At the convening of each session of the legislature the state law librarian shall deliver to the chief clerk of the house of representatives twenty copies, and to the secretary of the senate, ten copies, of the laws of the preceding general session and of any intervening session for the use of the legislators during the ensuing session but which shall be returned to the state law library at the expiration of the legislative session.

It shall be the duty of each county auditor biennially to submit to the state law librarian a list of county officers, including the prosecuting attorney and his regular full time deputies and the justices of the peace and superior court rooms regularly used by a justice of the peace or superior court judge, and the correct number of bound copies of the session laws necessary for the official use only of such officers and court rooms will be sent, transportation collect, to said county auditor who shall be responsible for the distribution thereof to the county officials entitled to receive them.

(3) Surplus copies of the session laws shall be sold and delivered by the state law librarian, in which case the price of the bound volumes shall be four dollars each. All moneys received from the sale of such bound volumes of session laws shall be paid into the state treasury for the general fund.

(4) The state law librarian is authorized to exchange bound copies of the session laws for similar laws or legal materials of other states, territories and governments, and to make such other and further distribution of the bound volumes as in his judgment seems proper. [1977 1st ex.s. c 169 § 94; 1973 c 33 § 1; 1969 c 6 § 8; 1941 c 150 § 4; Rem. Supp. 1941 § 8217-4. Formerly RCW 40.04.040 through 40.04.080.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Distribution of temporary edition of session laws: RCW 44.20.040.

Publication of session laws: RCW 44.20.050.

40.04.090 Legislative journals—Distribution, sale, exchange—Duties of law librarian—Surplus sets, sale, price. The house and senate journals shall be distributed and/or sold by the state law librarian as follows:

(1) Sets shall be distributed as follows: One set to each member of the legislature, secretary and assistant secretary of the senate, chief clerk and assistant to the chief clerk of the house of representatives, and to each minute clerk and sergeant-at-arms of the two branches of the legislature of which they occupy the offices and positions mentioned. One to each official whose office is created by the Constitution, and one to each state department director; three copies to the University of Washington law library; two copies to the University of Washington library; one to the King county law library; one to the Washington State University library; one to the library of each of the regional universities and to The Evergreen State College; one to the law library of Gonzaga University law school; one to the law library of the University of Puget Sound law school; one to the law libraries of any accredited law school as hereafter established in this state; and one to each free public library in the state which requests it.

(2) A set of the house and senate journals of the preceding general session, and of any intervening special session, shall be placed on the desk of each legislator for his use during the ensuing session, which shall be returned to the state law library at the expiration of the legislative session; and sufficient sets shall be retained for the use of the state law library.

(3) Surplus sets of the house and senate journals shall be sold and delivered by the state law librarian, in which case the price shall be fifteen dollars for those of the general sessions, and ten dollars for those of the special sessions, when separately bound, and the proceeds therefrom shall be paid to the state treasurer for the general fund.

(4) The state law librarian is authorized to exchange copies of the house and senate journals for similar journals of other states, territories, and/or governments, or for other legal materials, and to make such other and further distribution of them as in his judgment seems

proper. [1977 1st ex.s. c 169 § 95; 1973 c 33 § 2; 1941 c 150 § 5; Rem. Supp. 1941 § 8217-5.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169:
See notes following RCW 28B.10.016.

Chapter 40.06

STATE PUBLICATIONS DISTRIBUTION CENTER

Sections

40.06.010	Definitions.
40.06.020	Center created as division of state library—Depository library system—Rules and regulations.
40.06.030	Deposits by state agencies—Exemptions.
40.06.040	Inter-library depository contracts (as amended by 1977 1st ex.s. c 232).
40.06.040	Inter-library depository contracts (as amended by 1977 1st ex.s. c 169).

40.06.010 Definitions. As used in this chapter:

(1) "Print" includes all forms of reproducing multiple copies, with the exception of typewritten correspondence and interoffice memoranda.

(2) "State agency" includes every state office, officer, department, division, bureau, board, commission and agency of the state, and, where applicable, all subdivisions of each.

(3) "State publication" includes annual, biennial, and special reports, state periodicals and magazines, books, pamphlets, leaflets, and all other materials, other than news releases sent exclusively to the news media, typewritten correspondence and interoffice memoranda, issued in print by the state, the legislature, constitutional officers, or any state department, committee, or other state agency supported wholly or in part by state funds. [1977 1st ex.s. c 232 § 8; 1963 c 233 § 1.]

40.06.020 Center created as division of state library—Depository library system—Rules and regulations. There is hereby created as a division of the state library, and under the direction of the state librarian, a state publications distribution center. The center shall utilize the depository library system to permit citizens economical and convenient access to state publications. To this end the state library commission shall make such rules and regulations as may be deemed necessary to carry out the provisions of this chapter. [1977 1st ex.s. c 232 § 9; 1963 c 233 § 2.]

40.06.030 Deposits by state agencies—Exemptions. (1) Every state agency shall promptly deposit copies of each of its state publications with the state library in quantities as certified by the state librarian as required to meet the needs of the depository library system. Upon consent of the issuing state agency such state publications as are printed by the public printer shall be delivered directly to the center.

(2) In the interest of economy and efficiency, the state librarian may specifically or by general rule exempt a given state publication or class of publications from the requirements of this section in full or in part. [1977 1st ex.s. c 232 § 10; 1963 c 233 § 3.]

40.06.040 Inter-library depository contracts (as amended by 1977 1st ex.s. c 232). To provide economical public access to state publications, the center may enter into depository contracts with any free public library, any state college or state university library, or, if needed, the library of any privately incorporated college or university in this state. The requirements for eligibility to contract as a depository library shall be established by the state library commission upon recommendations of the state librarian. The standards shall include and take into consideration the type of library, available housing and space for the publications, the number and qualifications of personnel, and availability for public use. The center may also contract with public, out-of-state libraries for the exchange of state and other publications on a reciprocal basis. Any state publication to be distributed to the public and the legislature shall be mailed at the lowest available postal rate. [1977 1st ex.s. c 232 § 11; 1963 c 233 § 4.]

40.06.040 Inter-library depository contracts (as amended by 1977 1st ex.s. c 169). The center shall enter into depository contracts with any municipal or county free library, The Evergreen State College, regional university, or state university library, the library of any privately incorporated college or university in this state, the library of congress and the midwest inter-library center, and other state libraries. The requirements for eligibility to contract as a depository library shall be established by the state library commission upon recommendations of the state librarian. The standards shall include and take into consideration the type of library, available housing and space for the publications, the number and qualifications of personnel, and availability for public use. [1977 1st ex.s. c 169 § 96; 1963 c 233 § 4.]

Reviser's note: RCW 40.06.040 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Severability—Nomenclature—Savings—1977 1st ex.s. c 169:
See notes following RCW 28B.10.016.

Chapter 40.07

MANAGEMENT AND CONTROL OF STATE PUBLICATIONS

Sections

40.07.010	Legislative declaration.
40.07.020	Definitions.
40.07.030	Reports—Where filed—Review of state publications—Duties of agency head with respect to publications—Guidelines for publications—Director's duties.
40.07.040	Duties of the governor.
40.07.050	Prohibition of state publications not in accordance with RCW 40.07.030—Exceptions.
40.07.060	Notification—Removal from mailing lists, exceptions—Mailing rates.

40.07.010 Legislative declaration. It is the intent of this legislation to improve executive management and control of state publications and reduce state expenditures through: (1) Elimination of reports and publications which are economically or otherwise unjustified; and (2) the simplification and consolidation of other reports and publications. [1977 1st ex.s. c 232 § 1.]

40.07.020 Definitions. The terms defined in this section shall have the meanings indicated when used in this chapter.

(1) "Director" means the director of the office of program planning and fiscal management.

(2) "State agency" includes every state office, department, division, bureau, board, commission, committee, higher education institution, community college, and agency of the state and all subordinate subdivisions of

such agencies in the executive branch financed in whole or in part from funds held in the state treasury, but does not include the offices of executive officials elected on a state-wide basis, agricultural commodity commissions, the legislature, the judiciary, or agencies of the legislative or judicial branches of state government.

(3) (a) "State publication" means publications of state agencies and shall include any annual and biennial reports, any special report required by law, state agency newsletters, periodicals and magazines, and other printed informational material intended for general dissemination to the public or to the legislature.

(b) "State publication" may include such other state agency printed informational material as the director may prescribe by rule or regulation, in the interest of economy and efficiency, after consultation with the governor, the state librarian, and any state agencies affected.

(c) "State publication" does not include:

(i) Business forms, preliminary draft reports, working papers, or copies of testimony and related exhibit material prepared solely for purposes of a presentation to a committee of the state legislature;

(ii) Typewritten correspondence and interoffice memoranda, and staff memoranda and similar material prepared exclusively as testimony or exhibits in any proceeding in the courts of this state, the United States, or before any administrative entity;

(iii) Any notices of intention to adopt rules under RCW 34.04.025(1)(a) as now existing or hereafter amended;

(iv) Publications relating to a multistate program financed by more than one state or by federal funds or private subscriptions; or

(v) News releases sent exclusively to the news media.

(4) "Print" includes all forms of reproducing multiple copies with the exception of typewritten correspondence and interoffice memoranda. [1977 1st ex.s. c 232 § 2.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

40.07.030 Reports—Where filed—Review of state publications—Duties of agency head with respect to publications—Guidelines for publications—Director's duties. (1) Any annual, biennial, or special report required to be made by any state officer, board, agency, department, commissioner, regents, trustees, or institution to the governor or to the legislature may be typewritten and a copy shall be filed with the governor, or the governor's designee, and the legislature as the law may require. An additional copy shall be filed with the state library as a public record.

(2) The director or the director's designee may selectively review state publications in order to determine if specific state publications are economically and effectively contributing to the accomplishment of state agency program objectives. The director or the director's designee shall provide general guidelines as to the number of copies to be printed for use or distribution by the issuing agency and any public or other distribution

under chapter 40.06 RCW as now or hereafter amended, or other applicable directives.

(3) No agency head shall recommend a state publication for printing and distribution, other than those required by law, unless the benefits from the publication and distribution thereof to the citizens and taxpayers of this state clearly exceed the costs of preparation, printing, and distribution.

(4) The director, after consultation with affected agencies, shall prepare and publish guidelines for use by state agencies in determining and evaluating the benefits and costs of current and proposed state publications. All state agencies shall evaluate each new state publication they propose and shall annually evaluate each continuing state publication they produce in accordance with the guidelines published by the director.

(5) The director shall, after consultation with affected state agencies, also provide by general rules and regulations for overall control of the quality of the printing of state publications. Necessary publications are to be prepared and printed in the most economic manner consistent with effectiveness and achievement of program objectives. [1977 1st ex.s. c 232 § 3.]

40.07.040 Duties of the governor. (1) The governor or the governor's designee shall take such other action as may be necessary to maximize the economy, efficiency, and effectiveness of state publications and to do so may eliminate, consolidate, or simplify state agency publications.

(2) Nothing in this chapter shall be construed in any way as restricting public access to public records or the public right to copy such records as provided by RCW 42.17.250 through 42.17.340 as now existing or hereafter amended. [1977 1st ex.s. c 232 § 4.]

40.07.050 Prohibition of state publications not in accordance with RCW 40.07.030—Exceptions. Neither the public printer nor any state agency shall print or authorize for printing any state publication that has been determined by the director to be inconsistent with RCW 40.07.030 except to the extent this requirement may conflict with the laws of the United States or any rules or regulations lawfully promulgated under those laws. A copy of any state publication printed without the approval of the director under the exceptions authorized in this section shall be filed with the director with a letter of transmittal citing the federal statute, rule, or regulation requiring the publication. The director shall submit a report of such exceptions, as filed, to the legislative budget committee at least annually. [1977 1st ex.s. c 232 § 5.]

40.07.060 Notification—Removal from mailing lists, exceptions—Mailing rates. Each state agency shall at least once each biennium notify the addressees of each state publication in or with that publication that they may be removed from the mailing list by notifying the originating agency. Mailings required by a state or federal statute, rule, or regulation, those maintained by an institution of higher education for official fund raising or curriculum offerings, bulk mailings addressed to

"occupant" or a similar designation, and paid subscriptions are excluded from the provisions of this paragraph.

All publications shall be distributed or mailed at the lowest available rate. [1977 1st ex.s. c 232 § 6.]

Title 41

PUBLIC EMPLOYMENT, CIVIL SERVICE AND PENSIONS

Chapters

41.04	General provisions.
41.05	State employees' insurance and health care.
41.06	State civil service law.
41.26	Law enforcement officers' and fire fighters' retirement system.
41.32	Teachers' retirement.
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41.50	Department of retirement systems.
41.60	State employees' suggestion awards.

Chapter 41.04

GENERAL PROVISIONS

Sections

41.04.060	Reports required.
41.04.240	Direct deposit of salaries into financial institutions authorized.

41.04.060 Reports required. Copies of a report of the qualified actuary made to the retirement board after completion of the investigation, together with any recommendations to the board which the actuary may deem appropriate, and a report of the action taken by the board thereon, shall be furnished promptly by the retirement board of the system to the governor. [1977 c 75 § 33; 1949 c 78 § 3; Rem. Supp. 1949 § 10726o.]

41.04.240 Direct deposit of salaries into financial institutions authorized. Any official of the state or of any political subdivision, municipal corporation, or quasi municipal corporation authorized to disburse funds in payment of salaries and wages of employees is authorized upon written request of at least twenty-five employees to pay all or part of such salaries or wages to any financial institution for either: (1) Credit to the employees' accounts in such financial institution; or (2) immediate transfer therefrom to the employees' accounts in any other financial institutions: *Provided*, That nothing in this section shall be construed as authorizing any employer to require the employees to have an account in any particular financial institution or type of financial institution. A single warrant may be drawn in favor of such financial institution, for the total amount due the employees involved, and written directions provided to such financial institution of the amount to be credited to the account of an employee or to be transferred to an account in another financial institution for such

employee. The issuance and delivery by the disbursing officer of a warrant in accordance with the procedure set forth herein and proper indorsement thereof by the financial institution shall have the same legal effect as payment directly to the employee.

For the purposes of this section "financial institution" means any bank or trust company established in this state pursuant to chapter 2, Title 12, United States Code, or Title 30 RCW, and any credit union established in this state pursuant to chapter 14, Title 12, United States Code, or chapter 31.12 RCW, and any mutual savings bank established in this state pursuant to Title 32 RCW, and any savings and loan association established in this state pursuant to chapter 12, Title 12, United States Code, or Title 33 RCW. [1977 1st ex.s. c 269 § 1; 1969 c 59 § 6.]

Chapter 41.05

STATE EMPLOYEES' INSURANCE AND HEALTH CARE

Sections

41.05.005	Declaration of purpose.
41.05.020	State employees' insurance board—Created—Membership—Meetings—Travel expenses—Powers and duties. (Amended).
41.05.020	State employees' insurance board—Created—Membership—Meetings—Travel expenses—Powers and duties. (Repealed).
41.05.025	State employees' insurance board—Created—Membership—Meetings—Travel expenses—Powers and duties.
41.05.040	State employees insurance fund.
41.05.050	Contributions for employees and dependents.
41.05.070	Costs—Method of payment.
41.05.080	Participation by retired or disabled employees.

41.05.005 Declaration of purpose. The legislature, recognizing the desirability of maintaining a healthy work force in order to promote the efficiency and productivity of the employees and officials working for the state, declares it to be in the best interest of the state to provide comprehensive health care to state employees and officials and their dependents.

It is therefore the purpose of this chapter to establish health care plans that provide comprehensive health care for all qualified state employees and officials and their dependents, which plans will be funded by the employer to the fullest extent possible. [1977 1st ex.s. c 136 § 1.]

Effective date—Conditions prerequisite to implementing sections—1977 1st ex.s. c 136: "This 1977 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, 1977: *Provided*, That if the state operating budget appropriations act does not contain the funds necessary for the implementation of this 1977 amendatory act in an appropriated amount sufficient to fully fund the employer's contribution to the state employee insurance benefits program which is established by the board in accordance with RCW 41.05.050 (2) and (3) as now or hereafter amended, sections 1, 5, and 6 of this 1977 amendatory act shall be null and void." [1977 1st ex.s. c 136 § 8.]

The foregoing annotation applies to RCW 41.05.005, 41.05.025, the amendments to 41.05.040, 41.05.050, 41.05.070, and 41.05.080, and to the repeal of 41.05.020 by 1977 1st ex.s. c 136. The phrase "sections 1, 5, and 6 of this 1977 amendatory act" refers to RCW 41.05.005, 41.05.070, and 41.05.080.

41.05.020 State employees' insurance board—Created—Membership—Meetings—Travel expenses—Powers and duties.

(1) There is hereby created a state employees' insurance board to be composed as follows: The governor or the governor's designee; one administrative officer representing all of higher education to be appointed by the governor; two higher education faculty members to be appointed by the governor; the director of the department of personnel who shall act as trustee; one representative of an employee association certified as an exclusive representative of at least one bargaining unit of classified employees and one representative of an employee union certified as exclusive representative of at least one bargaining unit of classified employees, both to be appointed by the governor; one person who is retired and is covered by a program under the jurisdiction of the board, to be appointed by the governor; one member of the senate who shall be appointed by the president of the senate; and one member of the house of representatives who shall be appointed by the speaker of the house. The senate and house members of the board shall serve in ex officio capacity only. All appointments shall be made effective immediately. The terms of office of the administrative officer representing higher education, the two higher education faculty members, the representative of an employee association, the retired person, and the representative of an employee union shall be for four years: *Provided*, That the first term of one faculty member and one employee association or union representative member shall be for three years. The first meeting of the board shall be held as soon as possible thereafter at the call of the director of personnel. The board shall prescribe rules for the conduct of its business and shall elect a chairman and vice chairman at its first meeting and annually thereafter. Members of the board shall receive no compensation for their services, but shall be paid for their travel expenses while on official business in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, and legislative members shall receive allowances provided for in RCW 44.04.120.

(2) The board shall study all matters connected with the providing of adequate health care coverage, life insurance, liability insurance, accidental death and dismemberment insurance, and disability income insurance or any one of, or a combination of, the enumerated types of insurance and health care plans for state employees, employees of county, municipal, or other political subdivisions of the state, and their dependents on the best basis possible with relation both to the welfare of the employees and to the state: *Provided*, That liability insurance shall not be made available to dependents. The board shall design benefits, devise specifications, analyze carrier responses to advertisements for bids, determine the terms and conditions of employee participation and coverage, and decide on the award of contracts which shall be signed by the trustee on behalf of the board: *Provided*, That all contracts for insurance, health care plans, or protection applying to employees covered by RCW 28B.10.660 and 48.24.010 and chapters 41.04 and 41.05 RCW shall provide that the beneficiaries of such insurance, health care plans, or protection may utilize on an equal participation basis the services of practitioners licensed pursuant to chapters 18.22, 18.25, 18.32, 18.53, 18.57, 18.71, 18.74, 18.83, and 18.88 RCW: *Provided further*, That the boards of trustees and boards of regents of the several institutions of higher education shall retain sole authority to provide liability insurance as provided in RCW 28B.10.660. The board shall from time to time review and amend such plans. Contracts for all plans shall be rebid and awarded at least every five years.

(3) The board shall develop and provide employee health care benefit plans; at least one plan will provide major medical benefits as its primary feature, at least one plan will provide basic first-dollar benefits as its primary feature plus major medical, either or all of which may be provided through a contract or contracts with regularly constituted insurance carriers or health care service contractors as defined in chapter 48.44 RCW, and another plan to be provided by a panel medicine plan in its service area only when approved by the board. Except for panel medicine plans, no more than one insurance carrier or health care service contractor shall be contracted with to provide the same plan of benefits: *Provided*, That employees may choose participation in only one of the health care benefit plans sponsored by the board: *Provided further*, That employees of the institutions of higher education shall be retained as a separate actuarial and experience group. [1977 1st ex.s. c 190 § 1. Prior: 1977 c 75 § 34; 1977 c 6 § 1; prior: 1975-'76 2nd ex.s. c 106 § 3; 1975-'76 2nd ex.s. c 34 § 85; 1973 1st ex.s. c 147 § 1; 1970 ex.s. c 39 § 2.]

Reviser's note: The amendment of this section by 1977 1st ex.s. c 190 § 1 does not take cognizance of the section's repeal by 1977 1st ex.s. c 136 § 7.

41.05.020 State employees' insurance board—Created—Membership—Meetings—Travel expenses—Powers and duties. [1977 c 75 § 34; 1977 c 6 § 1. Prior: 1975-'76 2nd ex.s. c 106 § 3; 1975-'76 2nd ex.s. c 34 § 85; 1973 1st ex.s. c 147 § 1; 1970 ex.s. c 39 § 2.] Repealed by 1977 1st ex.s. c 136 § 7.

Reviser's note: This section was also amended by 1977 1st ex.s. c 190 § 1 without cognizance of the repeal thereof.

41.05.025 State employees' insurance board—Created—Membership—Meetings—Travel expenses—Powers and duties.

(1) There is hereby created a state employees' insurance board to be composed of the members of the present board holding office on the day prior to July 1, 1977, which such members shall serve until the expiration of the period of time of the term for which they were appointed and until their successors are appointed and qualified. Thereafter the board shall be composed as follows: The governor or his designee; one administrative officer representing all of higher education to be appointed by the governor; two higher education faculty members to be appointed by the governor; the director of the department of personnel who shall act as trustee; one representative of an employee association certified as an exclusive representative of at least one bargaining unit of classified employees and one representative of an employee union certified as exclusive representative of at least one bargaining unit of classified employees, both to be appointed by the governor; one member of the senate who shall be appointed by the president of the senate; and one member of the house of representatives who shall be appointed by the speaker of the house. The terms of office of the administrative officer representing higher education, the two higher education faculty members, the representative of an employee association, and the representative of an employee union shall be for four years: *Provided*, That the first term of one faculty member and one employee association or union representative member shall be for three years. Meetings of the board shall be at the call of the director of personnel. The board shall prescribe rules for the conduct of its business and shall elect a chairman and vice chairman annually. Members of the board shall receive no compensation for their services, but shall be paid for their travel expenses while on official business in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, and legislative members shall receive allowances provided for in RCW 44.04.120.

(2) The board shall study all matters connected with the providing of adequate health care coverage, life insurance, liability insurance, accidental death and dismemberment insurance, and disability income insurance or any one of, or a combination of, the enumerated types of insurance and health care plans for employees and their dependents on the best basis possible with relation both to the welfare of the employees and to the state: *Provided*, That liability insurance shall not be made available to dependents. The board shall design benefits, devise specifications, analyze carrier responses to advertisements for bids, determine the terms and conditions of

employee participation and coverage, and decide on the award of contracts which shall be signed by the trustee on behalf of the board: *Provided*, That all contracts for insurance, health care plans, including panel medicine plans, or protection applying to employees covered by RCW 28B.10.660 and chapters 41.04 and 41.05 RCW shall provide that the beneficiaries of such insurance, health care plans, or protection may utilize on an equal participation basis the services of practitioners licensed pursuant to chapters 18.22, 18.25, 18.32, 18.53, 18.57, 18.71, 18.74, 18.83, and 18.88 RCW: *Provided further*, That the boards of trustees and boards of regents of the several institutions of higher education shall retain sole authority to provide liability insurance as provided in RCW 28B.10.660. The board shall from time to time review and amend such plans. Contracts for all plans shall be rebid and awarded at least every five years.

(3) The board shall develop and provide as a part of the employee insurance benefit program an employee health care benefit plan which may be provided through a contract or contracts with regularly constituted insurance carriers or health care service contractors as defined in chapter 48.44 RCW, and a plan to be provided by a panel medicine plan in its service area only when approved by the board. Except for panel medicine plans, no more than one insurance carrier or health care service contractor shall be contracted with to provide the same plan of benefits: *Provided*, That employees may choose participation in only one of the health care benefit plans sponsored by the board. Active employees, as defined in RCW 41.05.020 (2), eligible for medicare benefits shall have the option of continuing participation in health care programs on the same basis as all other employees or participation in medicare supplemental programs as may be developed by the board. These health care benefit plans shall provide coverage for all officials and employees and their dependents without premium cost to the individual employees and officials: *Provided*, That the employer contribution per employee for panel medicine plans shall not exceed the employer contribution provided for in the contract entered into with the regularly constituted insurance carrier or health care service contractor. Rates for self pay segments of state employee groups will be developed from the experience of the entire group. Such self pay rates will be established based on a separate rate for the employee, the spouse, and children. [1977 1st ex.s. c 136 § 2.]

Effective date—**Conditions prerequisite to implementing sections**—1977 1st ex.s. c 136: See note following RCW 41.05.005.

41.05.040 State employees insurance fund. There is hereby created a fund within the state treasury, designated as the "state employees insurance fund", to be used by the trustee as a revolving fund for the deposit of contributions, dividends and refunds, and for payment of premiums for employee insurance benefit contracts entered into in accordance with instructions of the board and payments authorized by RCW 41.05.030(2). Moneys from the state employees insurance fund shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the trustee. [1977 1st ex.s. c 136 § 3; 1970 ex.s. c 39 § 4.]

Effective date—**Conditions prerequisite to implementing sections**—1977 1st ex.s. c 136: See note following RCW 41.05.005.

41.05.050 Contributions for employees and dependents. (1) Every department, division, or separate agency of state government, and such county, municipal, or other political subdivisions as are covered by this chapter, shall provide contributions to insurance and health care plans for its employees and their dependents, the content of such plans to be determined by the state employees insurance board. Such contributions, which shall be paid by the county, the municipality, or other political subdivision for their employees, shall include an amount determined by the state employee's insurance board to pay the administrative expenses of the board and the salaries and wages and expenses of the benefits supervisor and other necessary personnel: *Provided*, That this administrative service charge for state employees shall not result in an employer contribution in excess of the amount authorized by the governor and the legislature as prescribed in RCW 41.05.050(2), and that the sum of an employee's insurance premiums and administrative service charge in excess of such employer contribution shall be paid by the employee. All such contributions will be paid into the state employees insurance fund to be expended in accordance with RCW 41.05.030.

(2) The contributions of any department, division, or separate agency of the state government, and such county, municipal, or other political subdivisions as are covered by this chapter, shall be set by the state employees insurance board, subject to the approval of the governor for availability of funds as specifically appropriated by the legislature for that purpose: *Provided*, That nothing herein shall be a limitation on employees employed under chapter 47.64 RCW: *Provided further*, That provision for school district personnel shall not be made under this chapter.

(3) The trustee with the assistance of the department of personnel shall annually survey private industry and public employers in the state of Washington to determine the average employer contribution for group insurance programs under the jurisdiction of the state employees insurance board. Such survey shall be reported to the board for its use in setting the amount of the recommended employer contribution to the employee insurance benefit program covered by this chapter. The board shall transmit a recommendation for the amount of the employer contribution to the governor and the director of the office of program planning and fiscal management for inclusion in the proposed budgets submitted to the legislature. [1977 1st ex.s. c 136 § 4; 1975-'76 2nd ex.s. c 106 § 4; 1975 1st ex.s. c 38 § 2; 1973 1st ex.s. c 147 § 3; 1970 ex.s. c 39 § 5.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Effective date—**Conditions prerequisite to implementing sections**—1977 1st ex.s. c 136: See note following RCW 41.05.005.

Effective date—**Effect of veto**—**Appropriation**—**Savings**—**Severability**—1973 1st ex.s. c 147: See notes following RCW 41.05.010.

41.05.070 Costs—Method of payment. The cost of any health care insurance contracts or plans to any department, division or separate agency of state, county, municipal, or other political subdivision of state government shall be paid by any officer authorized to disburse such funds to the trustee for payment of the contributions due pursuant to any such contract authorized by the board. [1977 1st ex.s. c 136 § 5; 1975-'76 2nd ex.s. c 106 § 5; 1970 ex.s. c 39 § 7.]

Effective date—Conditions prerequisite to implementing sections—1977 1st ex.s. c 136: See note following RCW 41.05.005.

41.05.080 Participation by retired or disabled employees. Retired or disabled state employees, or employees of county, municipal, or other political subdivisions covered by this chapter who are retired, may continue their participation in insurance plans and contracts after retirement or disablement, under the qualifications, terms, conditions, and benefits set by the board: *Provided*, That the rates charged such retired or disabled employees for health care will be developed from the same experience pool as active employees: *Provided further*, That such retired or disabled employees shall bear the full cost of premiums required to provide such coverage: *Provided further*, That such self pay rates will be established based on a separate rate for the employee, the spouse, and the children: *Provided further*, That rates for a retired or disabled employee, spouse, or child who is eligible for and who elects to apply for medicare will be actuarially reduced to reflect the value of Part A and Part B of medicare. The term "retired state employees" for the purpose of this section shall include but not be limited to members of the legislature whether voluntarily or involuntarily leaving state office. [1977 1st ex.s. c 136 § 6; 1975-'76 2nd ex.s. c 106 § 6; 1973 1st ex.s. c 147 § 7; 1970 ex.s. c 39 § 8.]

Effective date—Conditions prerequisite to implementing sections—1977 1st ex.s. c 136: See note following RCW 41.05.005.

Effective date—Effect of veto—Appropriation—Savings—Severability—1973 1st ex.s. c 147: See notes following RCW 41.05.010.

**Chapter 41.06
STATE CIVIL SERVICE LAW**

Sections

- 41.06.079 Department of transportation—Certain personnel exempted from chapter.
- 41.06.090 Repealed.
- 41.06.110 Personnel board—Created—Term—Qualifications, conditions—Compensation, travel expenses—Officers, quorum, records.
- 41.06.150 Rules of board—Mandatory subjects—Veterans' preference.
- 41.06.160 Classification and salary schedules to consider rates in other public and private employment—Wage and fringe benefits surveys—Recommendations to governor, standing committees on appropriations of the legislature, and the director of the office of program planning and fiscal management—Data required.
- 41.06.163 Comprehensive salary and fringe benefit survey plan required—Contents.
- 41.06.165 Salary surveys—Criteria.

- 41.06.167 Salary and fringe benefit surveys required for officers of the Washington state patrol—Comprehensive salary and fringe benefits survey plan required.
- 41.06.169 Standardized employee performance evaluation procedures and forms required to be developed—Procedures to be instituted no later than July 1, 1978.

41.06.079 Department of transportation—Certain personnel exempted from chapter. In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the department of transportation to the secretary, a deputy secretary, an administrative assistant to the secretary, if any, one assistant secretary for each division designated pursuant to RCW 47.01.081, and one confidential secretary for each of the above-named officers. The individuals appointed under this section shall be exempt from the provisions of the state civil service law, and shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for individuals exempt from the operation of the state civil service law. [1977 1st ex.s. c 151 § 13.]

Exempt positions filled pending permanent appointment—1977 1st ex.s. c 151: "If on *the effective date of this 1977 amendatory act, any exempt position designated hereinabove has not been filled by appointment, the person serving in the comparable exempt position, if any, in an agency whose functions are by **section 3 of this 1977 amendatory act transferred to the department of transportation shall fill such exempt position until a permanent appointment thereto has been made." [1977 1st ex.s. c 151 § 14.]

Reviser's note: *(1) "the effective date of this 1977 amendatory act" was September 21, 1977.

** (2) "section 3 of this 1977 amendatory act" is codified as RCW 47.01.031.

Federal requirements—Severability—1977 1st ex.s. c 151: See RCW 47.98.070 and 47.98.080.

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

41.06.110 Personnel board—Created—Term—Qualifications, conditions—Compensation, travel expenses—Officers, quorum, records. (1) There is hereby created a state 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 December 8, 1960 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: *Provided*, That after July 1, 1962, no one board member shall receive more than one thousand five hundred dollars in any fiscal year for this purpose: *Provided, further*, That such limitation shall not apply to daily payments for the hearing of employee appeals. 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. The director of personnel shall serve as secretary.

(4) The board may appoint and compensate hearing officers to hear and conduct appeals. Such compensation shall be paid on a contractual basis for each hearing, in accordance with the provisions of chapter 43.88 RCW and rules adopted pursuant thereto, as they relate to personal service contracts. [1977 c 6 § 2. Prior: 1975-'76 2nd ex.s. c 43 § 1; 1975-'76 2nd ex.s. c 34 § 86; 1961 c 1 § 11.]

~~Effective date—Severability—1975-'76 2nd ex.s. c 34:~~ See notes following RCW 2.08.115.

41.06.150 Rules of board—Mandatory subjects—Veterans' preference. The board shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(1) The dismissal, suspension, or demotion of an employee, and appeals therefrom;

(2) Certification of names for vacancies, including departmental 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;

(3) Examinations for all positions in the competitive and noncompetitive service;

(4) Appointments;

(5) Probationary periods of six months and rejections therein;

(6) Transfers;

(7) Sick leaves and vacations;

(8) Hours of work;

(9) Layoffs when necessary and subsequent reemployment, both according to seniority;

(10) Determination of appropriate bargaining units within any agency: *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;

(11) Certification and decertification of exclusive bargaining representatives: *Provided*, That 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 a condition of employment shall constitute cause for dismissal: *Provided further*, 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;

(12) Agreements between agencies and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the appointing authority of the appropriate bargaining unit of such agency may lawfully exercise discretion;

(13) 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 appointing authority 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;

(14) Adoption and revision of a comprehensive classification plan for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position;

(15) Allocation and reallocation of positions within the classification plan;

(16) Adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private industries and other governmental units, such adoption and revision subject to approval by the director of the office of program planning and fiscal management in accordance with the provisions of chapter 43.88 RCW;

(17) Training programs, including in-service, promotional and supervisory;

(18) 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

(19) Providing for veteran's preference as required 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 state service, as defined by the board, the veteran's service in the military not to exceed five years. 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. [1977 1st ex.s. c 152 § 1; 1973 1st ex.s. c 75 § 1; 1973 c 154 § 1; 1971 ex.s. c 19 § 2; 1967 ex.s. c 108 § 13; 1961 c 1 § 15.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Severability—1977 1st ex.s. c 152: "If any provision of this 1977 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." [1977 1st ex.s. c 152 § 14.]

The foregoing annotation applies to RCW 28B.16.101, 28B.16.105, 28B.16.112, 28B.16.113, 41.06.163, 41.06.165, 41.06.167, and 41.06.169, to the 1977 amendments to RCW 28B.16.100, 28B.16.110, 41.06.150, and 41.06.160, and to the repeal of RCW 41.06.090.

Effective date—1973 1st ex.s. c 75: "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 midnight June 6, 1973." [1973 1st ex.s. c 75 § 3.]

Public employees collective bargaining: Chapter 41.56 RCW.

41.06.160 Classification and salary schedules to consider rates in other public and private employment—Wage and fringe benefits surveys—Recommendations to governor, standing committees on appropriations of the legislature, and the director of the office of program planning and fiscal management—Data required. In preparing classification and salary schedules as set forth in RCW 41.06.150 as now or hereafter amended the department of personnel shall give full consideration to prevailing rates in other public

employment and in private employment in this state. For this purpose the department shall undertake salary and fringe benefit surveys to be planned and conducted on a joint basis with the higher education personnel board, with one such survey to be conducted each year prior to the convening of each regular session of the state legislature. The results of each salary and fringe benefit survey shall be forwarded with a recommended state salary schedule to the governor and director of the office of program planning and fiscal management for their use in preparing budgets to be submitted to the succeeding legislature. A copy of the data and supporting documentation shall be furnished by the department of personnel to the standing committees for appropriations of the senate and house of representatives.

The department shall furnish the following supplementary data in support of its recommended salary schedule:

(1) A total dollar figure which reflects the recommended increase or decrease in state salaries as a direct result of the specific salary and fringe benefit survey that has been conducted and which is categorized to indicate what portion of the increase or decrease is represented by salary survey data and what portion is represented by fringe benefit survey data;

(2) An additional total dollar figure which reflects the impact of recommended increases or decreases to state salaries based on other factors rather than directly on prevailing rate data obtained through the survey process and which is categorized to indicate the sources of the requests for deviation from prevailing rates and the reasons for the changes;

(3) A list of class codes and titles indicating recommended monthly salary ranges for all state classes under the control of the department of personnel with:

(a) Those salary ranges which do not substantially conform to the prevailing rates developed from the salary and fringe benefit survey distinctly marked and an explanation of the reason for the deviation included; and

(b) Those department of personnel classes which are substantially the same as classes being used by the higher education personnel board clearly marked to show the commonality of the classes between the two jurisdictions;

(4) A supplemental salary schedule which indicates the additional salary to be paid state employees for hazardous duties or other considerations requiring extra compensation under specific circumstances. Additional compensation for these circumstances shall not be included in the basic salary schedule but shall be maintained as a separate pay schedule for purposes of full disclosure and visibility; and

(5) A supplemental salary schedule which indicates those cases where the board determines that prevailing rates do not provide similar salaries for positions that require or impose similar responsibilities, judgment, knowledge, skills, and working conditions. This supplementary salary schedule shall contain proposed salary adjustments necessary to eliminate any such dissimilarities in compensation. Additional compensation needed to eliminate such salary dissimilarities shall not be included in the basic salary schedule but shall be maintained as a

separate salary schedule for purposes of full disclosure and visibility.

It is the intention of the legislature that requests for funds to support recommendations for salary deviations from the prevailing rate survey data shall be kept to a minimum, and that the requests be fully documented when forwarded by the department of personnel. Further, it is the intention of the legislature that the department of personnel and the higher education personnel board jointly determine job classes which are substantially common to both jurisdictions and that basic salaries for these job classes shall be equal based on salary and fringe benefit survey findings. [1977 1st ex.s. c 152 § 2; 1961 c 1 § 16.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Severability—1977 1st ex.s. c 152: See note following RCW 41.06.150.

41.06.163 Comprehensive salary and fringe benefit survey plan required—Contents. (1) In the conduct of salary and fringe benefit surveys under RCW 41.06.160 as now or hereafter amended, it is the intention of the legislature that the surveys be undertaken in a manner consistent with statistically accurate sampling techniques. For this purpose, a comprehensive salary and fringe benefit survey plan shall be submitted to the director of the office of program planning and fiscal management, employee organizations, the standing committees for appropriations of the senate and house of representatives, and to the legislative budget committee six months before the beginning of each periodic survey required before regular legislative sessions. This comprehensive plan shall include but not be limited to the following:

(a) A complete explanation of the technical, statistical process to be used in the salary and fringe benefit survey including the percentage of accuracy expected from the planned statistical sample chosen for the survey and a definition of the term "prevailing rates" which is to be used in the planned survey;

(b) A comprehensive salary and fringe benefit survey model based on scientific statistical principles which:

(i) Encompasses the interrelationships among the various elements of the survey sample including sources of salary and fringe benefit data by organization type, size, and regional location;

(ii) Is representative of private and public employment in this state;

(iii) Ensures that, wherever practical, data from smaller, private firms are included and proportionally weighted in the survey sample; and

(iv) Indicates the methodology to be used in application of survey data to job classes used by state government;

(c) A prediction of the increase or decrease in total funding requirements expected to result from the pending salary and fringe benefit survey based on consumer price index information and other available trend data pertaining to Washington state salaries and fringe benefits.

(2) Every comprehensive survey plan shall fully consider fringe benefits as an element of compensation in addition to basic salary data. The plans prepared under this section shall be developed jointly by the department of personnel in conjunction with the higher education personnel board established under chapter 28B.16 RCW. All comprehensive salary and fringe benefit survey plans shall be submitted on a joint signature basis by the department of personnel and the higher education personnel board. The legislative budget committee shall review and evaluate all survey plans before final implementation.

(3) Interim or special surveys conducted under RCW 41.06.160 as now or hereafter amended shall conform when possible to the statistical techniques and principles developed for regular periodic surveys under this section.

(4) The term "fringe benefits" as used in this section and in conjunction with salary surveys shall include but not be limited to compensation for:

(a) Leave time, including vacation, holiday, civil, and personal leave;

(b) Employer retirement contributions;

(c) Health and insurance payments, including life, accident, and health insurance, workmen's compensation, and sick leave; and

(d) Stock options, bonuses, and purchase discounts where appropriate. [1977 1st ex.s. c 152 § 3.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Severability—1977 1st ex.s. c 152: See note following RCW 41.06.150.

41.06.165 Salary surveys—Criteria. Salary surveys shall be conducted according to the following criteria in addition to any other provisions under this chapter:

(1) Adjustments of state salaries to prevailing rates in Washington state private industries and other governmental units shall be determined by comparisons of weighted averages of salaries, including weighted averages of salaries from out-of-state sources when necessary to obtain statistically valid salary surveys; and

(2) Determination of state salary changes from prevailing rate data collected in salary surveys shall be based on occupational group averages containing related job classes where appropriate rather than on comparisons of survey data to individual state job classes. [1977 1st ex.s. c 152 § 4.]

Severability—1977 1st ex.s. c 152: See note following RCW 41.06.150.

41.06.167 Salary and fringe benefit surveys required for officers of the Washington state patrol—Comprehensive salary and fringe benefits survey plan required. The department of personnel shall undertake salary and fringe benefit surveys for officers of the Washington state patrol, with one survey to be conducted each year prior to the convening of each regular session of the state legislature. The results of each such survey shall be forwarded, after review and concurrence by the chief of

the Washington state patrol, to the governor and director of the office of program planning and fiscal management for their use in preparing budgets to be submitted to the succeeding legislature. A copy of the data and supporting documentation shall be furnished by the department of personnel to the legislative budget committee and the standing committees for appropriations of the senate and house of representatives. The office of program planning and fiscal management shall analyze the survey results and conduct investigations which may be necessary to arbitrate differences between interested parties regarding the accuracy of collected survey data and the use of such data for salary adjustment.

Surveys conducted by the department of personnel for the Washington state patrol shall be undertaken in a manner consistent with statistically accurate sampling techniques, including comparisons of weighted averages of salaries. This service performed by the department of personnel shall be on a reimbursable basis in accordance with the provisions of RCW 41.06.080 as now existing or hereafter amended.

A comprehensive salary and fringe benefits survey plan shall be submitted jointly by the department of personnel and the Washington state patrol to the director of the office of program planning and fiscal management, the committee on ways and means of the senate, the committee on appropriations of the house of representatives and to the legislative budget committee six months before the beginning of each periodic survey. The legislative budget committee shall review and evaluate the survey plan before final implementation. [1977 1st ex.s. c 152 § 5.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Severability—1977 1st ex.s. c 152: See note following RCW 41.06.150.

41.06.169 Standardized employee performance evaluation procedures and forms required to be developed—Procedures to be instituted no later than July 1, 1978. After consultation with state agency heads, employee organizations, and other interested parties, the state personnel director shall develop standardized employee performance evaluation procedures and forms which shall be used by state agencies for the appraisal of employee job performance at least annually. These procedures shall include means whereby individual agencies may supplement the standardized evaluation process with special performance factors peculiar to specific organizational needs. Performance evaluation procedures shall place primary emphasis on recording how well the employee has contributed to efficiency, effectiveness, and economy in fulfilling state agency and job objectives. A standardized performance evaluation procedure shall be instituted not later than July 1, 1978, for all employees. [1977 1st ex.s. c 152 § 6.]

Severability—1977 1st ex.s. c 152: See note following RCW 41.06.150.

Chapter 41.26

LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM

Sections	
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41.26.550	Reentry.
41.26.901	Severability—1977 1st ex.s. c 294.
41.26.921	Effective date—1977 1st ex.s. c 294.

41.26.005 Applicability of certain sections in chapter only to persons who establish membership in the retirement system on or before September 30, 1977. The provisions of the following sections of this chapter shall apply only to persons who establish membership in the retirement system on or before September 30, 1977: RCW 41.26.080, 41.26.090, 41.26.100, 41.26.110, 41.26.120, 41.26.130, 41.26.140, 41.26.150, 41.26.160, 41.26.190, 41.26.200, 41.26.240, 41.26.250, 41.26.260, and 41.26.270. [1977 1st ex.s. c 294 § 18.]

41.26.030 Definitions. As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Retirement system" means the "Washington law enforcement officers' and fire fighters' retirement system" provided herein.

(2) (a) "Employer" for persons who establish membership in the retirement system on or before September 30, 1977, means the legislative authority of any city, town, county or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or fire fighter, any authorized association of such municipalities, and, except for the purposes of RCW 41.26.150, any labor guild, association, or organization, which represents the fire fighters or law enforcement officers of at least seven cities of over 20,000 population and the membership of each local lodge or division of which is composed of at least sixty percent

law enforcement officers or fire fighters as defined in this chapter.

(b) "Employer" for persons who establish membership in the retirement system on or after October 1, 1977, means the legislative authority of any city, town, county, or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or fire fighter.

(3) "Law enforcement officer" means any person who is serving on a full time, fully compensated basis as a county sheriff or deputy sheriff, including sheriffs or deputy sheriffs serving under a different title pursuant to a county charter, city police officer, or town marshal or deputy marshal, with the following qualifications:

(a) No person who is serving in a position that is basically clerical or secretarial in nature, and who is not commissioned shall be considered a law enforcement officer;

(b) Only those deputy sheriffs, including those serving under a different title pursuant to county charter, who have successfully completed a civil service examination for deputy sheriff or the equivalent position, where a different title is used, and those persons serving in unclassified positions authorized by RCW 41.14.070 except a private secretary will be considered law enforcement officers;

(c) Only such full time commissioned law enforcement personnel as have been appointed to offices, positions, or ranks in the police department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance enacted by the legislative body of the city shall be considered city police officers; and

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2) as now or hereafter amended) if such individual has five years previous membership in the retirement system established in chapter 41.20 RCW: *Provided*, That for persons who establish membership in the retirement system on or after October 1, 1977, the provisions of this subparagraph shall not apply.

(4) "Fire fighter" means:

(a) any person who is serving on a full time, fully compensated basis as a member of a fire department of an employer and who is serving in a position which requires passing a civil service examination for fire fighter, or fireman if this title is used by the department, and who is actively employed as such;

(b) anyone who is actively employed as a full time fire fighter where the fire department does not have a civil service examination;

(c) supervisory fire fighter personnel;

(d) any full time executive secretary of an association of fire protection districts authorized under chapter 52.08 RCW: *Provided*, That for persons who establish membership in the retirement system on or after October 1, 1977, the provisions of this subparagraph shall not apply;

(e) the executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2) as now or hereafter amended), if such

individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW: *Provided*, That for persons who establish membership in the retirement system on or after October 1, 1977, the provisions of this subparagraph shall not apply;

(f) any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for fireman or fire fighter; and

(g) any person who on March 1, 1970, was employed on a full time, fully compensated basis by an employer, and who on May 21, 1971 was making retirement contributions under the provisions of chapter 41.16 or 41.18 RCW.

(5) "Retirement board" means the Washington public employees' retirement system board established in chapter 41.40 RCW, including two members of the retirement system and two employer representatives as provided for in RCW 41.26.050. The retirement board shall be called the Washington law enforcement officers' and fire fighters' retirement board and may enter in legal relationships in that name. Any legal relationships entered into in that name prior to the adoption of *this 1972 amendatory act are hereby ratified.

(6) "Surviving spouse" means the surviving widow or widower of a member. The word shall not include the divorced spouse of a member.

(7) "Child" or "children" whenever used in this chapter means every natural born child and stepchild where that relationship was in existence prior to the date benefits are payable under this chapter, posthumous child, child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter, and illegitimate child legitimized prior to the date any benefits are payable under this chapter, all while unmarried, and either under the age of eighteen years or mentally or physically handicapped as determined by the retirement board except a handicapped person in the full time care of a state institution. A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

(8) "Member" means any fire fighter, law enforcement officer, or other person as would apply under subsections (3) or (4) of this section whose membership is transferred to the Washington law enforcement officers' and fire fighters' retirement system on or after March 1, 1970, and every law enforcement officer and fire fighter who is employed in that capacity on or after such date.

(9) "Retirement fund" means the "Washington law enforcement officers' and fire fighters' retirement system fund" as provided for herein.

(10) "Employee" means any law enforcement officer or fire fighter as defined in subsections (3) and (4) above.

(11) (a) "Beneficiary" for persons who establish membership in the retirement system on or before September 30, 1977, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(b) "Beneficiary" for persons who establish membership in the retirement system on or after October 1, 1977, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(12) (a) "Final average salary" for persons who establish membership in the retirement system on or before September 30, 1977, means (i) for a member holding the same position or rank for a minimum of twelve months preceding the date of retirement, the basic salary attached to such same position or rank at time of retirement; (ii) for any other member, including a civil service member who has not served a minimum of twelve months in the same position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, computed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; (iii) in the case of disability of any member, the basic salary payable to such member at the time of disability retirement; (iv) in the case of a member who hereafter vests pursuant to RCW 41.26.090, the basic salary payable to such member at the time of vesting.

(b) "Final average salary" for persons who establish membership in the retirement system on or after October 1, 1977, means the monthly average of the member's basic salary for the highest consecutive sixty months of service prior to such member's retirement, termination, or death. Periods constituting authorized unpaid leaves of absence may not be used in the calculation of final average salary.

(13) (a) "Basic salary" for persons who establish membership in the retirement system on or before September 30, 1977, means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.

(b) "Basic salary" for persons who establish membership in the retirement system on or after October 1, 1977, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, as reported by the employer on the wage and tax statement submitted to the federal internal revenue service, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay: *Provided*, That in any year in which a member serves in the legislature such member's compensation earnable shall be the greater of:

(i) the compensation earnable the member would have received had such member not served in the legislature; or

(ii) such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under subparagraph (i) of this subsection is greater than compensation earnable under subparagraph (ii) of this subsection shall be paid by the member for both member and employer contributions.

(14) (a) "Service" for persons who establish membership in the retirement system on or before September 30, 1977, means all periods of employment for an employer as a fire fighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. Credit shall be allowed for all months of service rendered by a member from and after his initial commencement of employment as a fire fighter or law enforcement officer, during which he worked for ten days or more, or the equivalent thereof, or was on disability leave or disability retirement. Only months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. In addition to the foregoing, for members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall include (i) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under his particular prior pension act, and (ii) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act: *Provided*, That if such member's prior service is not creditable due to the withdrawal of his contributions plus accrued interest thereon from a prior pension system, such member shall be credited with such prior service, as a law enforcement officer or fire fighter, by paying to the Washington law enforcement officers' and fire fighters' retirement system, on or before March 1, 1975, an amount which is equal to that which was withdrawn from the prior system by such member, as a law enforcement officer or fire fighter: *Provided further*, That if such member's prior service is not creditable because, although employed in a position covered by a prior pension act, such member had not yet become a member of the pension system governed by such act, such member shall be credited with such prior service as a law enforcement officer or fire fighter, by paying to the Washington law enforcement officers' and fire fighters' retirement system, on or before March 1, 1975, an amount which is equal to the employer's contributions which would have been required under the prior act when such service was

rendered if the member had been a member of such system during such period: *And provided further*, That where a member is employed by two employers at the same time, he shall only be credited with service to one such employer for any month during which he rendered such dual service.

(b) "Service" for persons who establish membership in the retirement system on or after October 1, 1977, means periods of employment by a member for one or more employers for which basic salary is earned for ninety or more hours per calendar month.

Members of the retirement system who are elected or appointed to a state elective position as defined in RCW 41.40.010(30) may elect to continue to be members of this retirement system.

Years of service shall be determined by dividing the total number of months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits.

If a member receives basic salary from two or more employers during any calendar year such member shall receive a total of not more than twelve months of service for such calendar year.

(15) "Accumulated contributions" means the employee's contributions made by a member plus accrued interest credited thereon.

(16) "Actuarial reserve" means a method of financing a pension or retirement plan wherein reserves are accumulated as the liabilities for benefit payments are incurred in order that sufficient funds will be available on the date of retirement of each member to pay his future benefits during the period of his retirement.

(17) "Actuarial valuation" means a mathematical determination of the financial condition of a retirement plan. It includes the computation of the present monetary value of benefits payable to present members, and the present monetary value of future employer and employee contributions, giving effect to mortality among active and retired members and also to the rates of disability, retirement, withdrawal from service, salary and interest earned on investments.

(18) "Disability board" means either the county disability board or the city disability board established in RCW 41.26.110 for persons who establish membership in the retirement system on or before September 30, 1977.

(19) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to his full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(20) "Disability retirement" for persons who establish membership in the retirement system on or before September 30, 1977, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(21) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

(22) "Medical services" for persons who establish membership in the retirement system on or before September 30, 1977, shall include the following as minimum services to be provided. Reasonable charges for these services shall be paid in accordance with RCW 41.26.150.

(a) Hospital expenses: These are the charges made by a hospital, in its own behalf, for

(i) Board and room not to exceed semiprivate room rate unless private room is required by the attending physician due to the condition of the patient.

(ii) Necessary hospital services, other than board and room, furnished by the hospital.

(b) Other medical expenses: The following charges are considered "other medical expenses", provided that they have not been considered as "hospital expenses".

(i) The fees of the following:

(A) A physician or surgeon licensed under the provisions of chapter 18.71 RCW;

(B) An osteopath licensed under the provisions of chapter 18.57 RCW;

(C) A chiropractor licensed under the provisions of chapter 18.25 RCW.

(ii) The charges of a registered graduate nurse other than a nurse who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse.

(iii) The charges for the following medical services and supplies:

(A) Drugs and medicines upon a physician's prescription;

(B) Diagnostic x-ray and laboratory examinations;

(C) X-ray, radium, and radioactive isotopes therapy;

(D) Anesthesia and oxygen;

(E) Rental of iron lung and other durable medical and surgical equipment;

(F) Artificial limbs and eyes, and casts, splints, and trusses;

(G) Professional ambulance service when used to transport the member to or from a hospital when he is injured by an accident or stricken by a disease;

(H) Dental charges incurred by a member who sustains an accidental injury to his teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;

(I) Nursing home confinement or hospital extended care facility;

(J) Physical therapy by a registered physical therapist;

(K) Blood transfusions, including the cost of blood and blood plasma not replaced by voluntary donors;

(L) An optometrist licensed under the provisions of chapter 18.53 RCW.

(23) "Regular interest" means such rate as the department may determine.

(24) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(25) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(26) "Director" means the director of the department.

(27) "State actuary" means the person appointed pursuant to RCW 44.44.010(2). [1977 1st ex.s. c 294 § 17; 1974 ex.s. c 120 § 1; 1972 ex.s. c 131 § 1; 1971 ex.s. c 257 § 6; 1970 ex.s. c 6 § 1; 1969 ex.s. c 209 § 3.]

***Reviser's note:** The effective date of "this 1972 amendatory act" [1972 ex.s. c 131] was February 25, 1972.

Reviser's note: The term "this 1970 amendatory act" has been changed to "this chapter" wherever the term occurs in the 1970 amendments to chapter 41.26 RCW. "This 1970 amendatory act" [1970 ex.s. c 6] consists of the 1970 amendments to this section and to RCW 41.26.040, 41.26.050, 41.26.090-41.26.200, 41.26.240, 41.24-.010, 41.24.030, 41.24.031 and section 44, chapter 209, Laws of 1969 ex.s. [uncodified].

Severability—1974 ex.s. c 120: "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 120 § 15.]

Severability—1972 ex.s. c 131: "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 131 § 12.]

Purpose—1971 ex.s. c 257: "It is the purpose of this act to provide minimum medical and health standards for membership coverage into the Washington law enforcement officers' and fire fighters' retirement system act, for the improvement of the public service, and to safeguard the integrity and actuarial soundness of their pension systems, and to improve their retirement and pension systems and related provisions." [1971 ex.s. c 257 § 1.]

Severability—1971 ex.s. c 257: "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 257 § 22.]

The foregoing annotations apply to RCW 41.16.146, 41.18.105, 41.26.030, 41.26.035, 41.26.045, 41.26.046, 41.26.047, 41.26.050, 41.26.090, 41.26.100, 41.26.150, 41.26.160, 41.26.180, 41.26.200, 41.26.270, 41.26.280, 41.26.290, 41.48.030 and 41.48.050.

41.26.045 Minimum medical and health standards.

Notwithstanding any other provision of law after February 19, 1974 no law enforcement officer or fire fighter, may become eligible for coverage in the pension system established by this chapter, until he has met and has been certified as having met minimum medical and health standards: *Provided*, That an elected sheriff or an appointed chief of police or fire chief, shall not be required to meet the age standard: *Provided further*, That in cities and towns having not more than two law enforcement officers and/or not more than two fire fighters and if one or more of such persons do not meet the minimum medical and health standards as required by the provisions of this chapter, then such person or persons may join any other pension system that the city has available for its other employees: *And provided further*, That for one year after February 19, 1974 any such medical or health standard now existing or herein-after adopted, insofar as it establishes a maximum age beyond which an applicant is to be deemed ineligible for coverage, shall be waived as to any applicant for employment or reemployment who is otherwise eligible except for his age, who has been a member of any one or more of the retirement systems created by chapter 41.20 of the Revised Code of Washington and who has

restored all contributions which he has previously withdrawn from any such system or systems. [1977 1st ex.s. c 294 § 20; 1974 ex.s. c 120 § 8; 1971 ex.s. c 257 § 3.]

Reviser's note: "this 1971 act" translated to "this chapter" [1971 ex.s. c 257] consists of RCW 41.16.146, 41.18.105, 41.26.035, 41.26-.045, 41.26.046, 41.26.047, 41.26.270, 41.26.280, 41.26.290, and amendments to RCW 41.26.030, 41.26.050, 41.26.090, 41.26.100, 41.26.150, 41.26.160, 41.26.180, 41.26.200, 41.48.030 and 41.48.050.

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.035.

41.26.046 Minimum medical and health standards—Board to adopt—Publication and distribution—Employer certification procedures. By July 31, 1971, the retirement board shall adopt minimum medical and health standards for membership coverage into the Washington law enforcement officers' and fire fighters' retirement system act. In adopting such standards the retirement board shall consider existing standards recommended by the international association of chiefs of police and the international association of fire fighters, and shall adopt equal or higher standards, together with appropriate standards and procedures to insure uniform compliance with this chapter. The standards when adopted shall be published and distributed to each employer, and each employer shall adopt certification procedures and such other procedures as are required to insure that no law enforcement officer or fire fighter receives membership coverage unless and until he has actually met minimum medical and health standards: *Provided*, That an elected sheriff or an appointed chief of police or fire chief shall not be required to meet the age standard. The retirement board may amend the minimum medical and health standards as experience indicates, even if the standards as so amended are lower or less rigid than those recommended by the international associations mentioned above. The cost of the medical examination contemplated by this section is to be paid by the employer. [1977 1st ex.s. c 294 § 21; 1974 ex.s. c 120 § 12; 1972 ex.s. c 131 § 2; 1971 ex.s. c 257 § 4.]

Reviser's note: "this 1971 act" translated to "this chapter" [1971 ex.s. c 257] consists of RCW 41.16.146, 41.18.105, 41.26.035, 41.26-.045, 41.26.046, 41.26.047, 41.26.270, 41.26.280, 41.26.290, and amendments to RCW 41.26.030, 41.26.050, 41.26.090, 41.26.100, 41.26.150, 41.26.160, 41.26.180, 41.26.200, 41.48.030 and 41.48.050.

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

Severability—1972 ex.s. c 131: See note following RCW 41.26.030.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

41.26.090 Retirement for service. Retirement of a member for service shall be made by the board as follows:

(1) Any member having five or more years of service and having attained the age of fifty years shall be eligible for a service retirement allowance and shall be retired upon his written request effective the first day following the date upon which the member is separated from service.

(2) Any member having five or more years of service, who terminates his employment with any employer, may leave his contributions in the fund. Any employee who so elects, upon attaining age fifty, shall be eligible to apply for and receive a service retirement allowance based on his years of service, commencing on the first day following his attainment of age fifty. This section shall also apply to a person who rendered service as a law enforcement officer or fire fighter, as those terms are defined in RCW 41.26.030, on or after July 1, 1969, but who was not employed as a law enforcement officer or fire fighter on March 1, 1970, by reason of his having been elected to a public office. Any member selecting this optional vesting with less than twenty years of service shall not be covered by the provisions of RCW 41.26.150, and his survivors shall not be entitled to the benefits of RCW 41.26.160 unless his death occurs after he has attained the age of fifty years. Those members selecting this optional vesting with twenty or more years service shall not be covered by the provisions of RCW 41.26.150 until the attainment of the age of fifty years: *Provided*, That a member selecting this option, with less than twenty years of service credit, who shall die prior to attaining the age of fifty years, shall have paid from the Washington law enforcement officers' and fire fighters' retirement fund, to such member's surviving spouse, if any, otherwise to such beneficiary as the member shall have designated in writing, or if no such designation has been made, to the personal representative of his estate, a lump sum which is equal to the amount of such member's accumulated contributions plus accrued interest: *Provided further*, That if the vested member has twenty or more years of service credit the surviving spouse or children shall then become eligible for the benefits of RCW 41.26.160 regardless of his age at the time of his death, to the exclusion of the lump sum amount provided by this subsection.

(3) Any member who has attained the age of sixty years shall be retired on the first day of the calendar month next succeeding that in which said member shall have attained the age of sixty and may not thereafter be employed as a law enforcement officer or fire fighter: *Provided*, That for any member who is elected or appointed to the office of sheriff, chief of police, or fire chief, his election or appointment shall be considered as a waiver of the age sixty provision for retirement and nonemployment for whatever number of years remain in his present term of office and any succeeding periods for which he may be so elected or appointed: *Provided further*, That the provisions of this subsection shall not apply to any member who is employed as a law enforcement officer or fire fighter on March 1, 1970. [1977 1st ex.s. c 294 § 22; 1972 ex.s. c 131 § 6; 1971 ex.s. c 257 § 8; 1970 ex.s. c 6 § 4; 1969 ex.s. c 209 § 9.]

Severability—1972 ex.s. c 131: See note following RCW 41.26.030.

Purpose—**Severability**—1971 ex.s. c 257: See notes following RCW 41.26.030.

41.26.160 Death benefits. (1) In the event of the death of any member who is in active service, or who has vested under the provisions of RCW 41.26.090 with

twenty or more years of service, or who is on disability leave or retired, whether for disability or service, his surviving spouse shall become entitled to receive a monthly allowance equal to fifty percent of his final average salary at the date of death if active, or the amount of retirement allowance the vested member would have received at age fifty, or the amount of the retirement allowance such retired member was receiving at the time of his death if retired for service or disability. The amount of this allowance will be increased five percent of final average salary for each child as defined in RCW 41.26.030(7), as now or hereafter amended, subject to a maximum combined allowance of sixty percent of final average salary: *Provided*, That if the child or children is or are in the care of a legal guardian, payment of the increase attributable to each child will be made to the child's legal guardian.

(2) If at the time of the death of a vested member with twenty or more years service as provided above or a member retired for service or disability, the surviving spouse has not been lawfully married to such member for one year prior to his retirement or separation from service if a vested member, the surviving spouse shall not be eligible to receive the benefits under this section: *Provided*, That if a member dies as a result of a disability incurred in the line of duty, then if he was married at the time he was disabled, his surviving spouse shall be eligible to receive the benefits under this section.

(3) If there be no surviving spouse eligible to receive benefits at the time of such member's death, then the child or children of such member shall receive a monthly allowance equal to thirty percent of final average salary for one child and an additional ten percent for each additional child subject to a maximum combined payment, under this subsection, of sixty percent of final average salary. When there cease to be any eligible children as defined in RCW 41.26.030(7), as now or hereafter amended, there shall be paid to the legal heirs of said member the excess, if any, of accumulated contributions of said member at the time of his death over all payments made to his survivors on his behalf under this chapter: *Provided*, That payments under this subsection to children shall be prorated equally among the children, if more than one.

(4) In the event that there is no surviving spouse eligible to receive benefits under this section, and that there be no child or children eligible to receive benefits under this section, then the accumulated contributions shall be paid to the estate of said member.

(5) If a surviving spouse receiving benefits under the provisions of this section thereafter dies and there are children as defined in RCW 41.26.030(7), as now or hereafter amended, payment to the spouse shall cease and the child or children shall receive the benefits as provided in subsection (3) above.

(6) The payment provided by this section shall become due the day following the date of death and payments shall be retroactive to that date. [1977 1st ex.s. c 294 § 23; 1974 ex.s. c 120 § 5; 1972 ex.s. c 131 § 9; 1971 ex.s. c 257 § 11; 1970 ex.s. c 6 § 12; 1969 ex.s. c 209 § 17.]

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

Severability—1972 ex.s. c 131: See note following RCW 41.26.030.

Purpose—Severability—1971 ex.s. c 257: See notes following RCW 41.26.030.

41.26.320 Employer to provide information required by state actuary. Notwithstanding any other provision of law to the contrary, the employer shall provide such information as required by the state actuary regarding the award of the disability leave allowance. Such information shall include, but shall not be limited to:

- (1) The number of persons receiving disability leaves;
- (2) The certified reason for disability; when the disability was initially incurred; and, if it was duty related;
- (3) The disability leave allowance paid and for how long;
- (4) The number of replacement personnel required to cover the loss of personnel on disability leave allowance and the resulting cost incurred; and,
- (5) The age of the employee and the length of service at the time of the disability leave.

The employer shall also provide such information as required by the state actuary regarding disability and medical benefit costs including, but not limited to, those required under provisions of this chapter.

The information required by this section shall be from March 1, 1970, forward. [1977 1st ex.s. c 294 § 19.]

41.26.330 Investments—Exercise of judgment and care required. Any investments under RCW 43.84-.150 shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived. [1977 1st ex.s. c 251 § 8.]

41.26.400 Legislative finding. The legislature finds and determines that those members first employed on or before September 30, 1977, shall not suffer any diminishment or loss of benefits or rights, whether current or prospective, as the result of the enactment of *this 1977 amendatory act. [1977 1st ex.s. c 294 § 1.]

***Reviser's note:** "this 1977 amendatory act" (1977 1st ex.s. c 294) consists of RCW 41.26.005, 41.26.320, 41.26.400 through 41.26.550, 41.26.901, 41.26.921, and the 1977 amendments to RCW 41.26.030, 41.26.045, 41.26.046, 41.26.090, and 41.26.160.

Legislative direction and placement—1977 1st ex.s. c 294: "Sections 1 through 16 of this 1977 amendatory act shall be added to chapter 41.26 RCW and shall be codified as consecutive sections of the Revised Code of Washington within such chapter." [1977 1st ex.s. c 294 § 25.]

Section headings—1977 1st ex.s. c 294: "Section headings used in this 1977 amendatory act shall not constitute any part of the law." [1977 1st ex.s. c 294 § 24.]

The foregoing annotations apply to RCW 41.26.400 through 41.26.550.

41.26.410 Application to certain persons. RCW 41.26.420 through 41.26.550 shall apply only to those persons who are initially employed by an employer on or after October 1, 1977. [1977 1st ex.s. c 294 § 2.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 294: See notes following RCW 41.26.400.

41.26.420 Computation of the retirement allowance.

A member of the retirement system shall receive a retirement allowance equal to two percent of such member's average final compensation for each year of service. [1977 1st ex.s. c 294 § 3.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 294: See notes following RCW 41.26.400.

41.26.430 Retirement for service. (1) NORMAL RETIREMENT. Any member with at least five years of service who has attained at least age fifty-eight shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.26.420.

(2) EARLY RETIREMENT. Any member who has completed at least twenty years of service and has attained age fifty shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.26.420, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age fifty-eight. [1977 1st ex.s. c 294 § 4.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 294: See notes following RCW 41.26.400.

41.26.440 Post-retirement cost-of-living. Beginning July 1, 1979, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

- (1) The original dollar amount of the retirement allowance;
- (2) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";
- (3) The index for the calendar year prior to the date of determination, to be known as "index B"; and
- (4) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the original retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

- (a) Produce a retirement allowance which is lower than the original retirement allowance;
- (b) Exceed three percent in the initial annual adjustment; or
- (c) Differ from the previous year's annual adjustment by more than three percent.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index—Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor. [1977 1st ex.s. c 294 § 5.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 294: See notes following RCW 41.26.400.

41.26.450 Employer, member, and state contributions. The required contribution rates to the retirement system for members, employers, and the state of Washington shall be established by the director from time to time as may be necessary upon the advice of the state actuary.

The member, the employer and the state shall each contribute the following shares of the cost of the retirement system:

Member	50%
Employer	30%
State	20%

Any adjustments in contribution rates required from time to time for future costs shall likewise be shared proportionally by the members, employers, and the state: *Provided*, That the costs of amortizing the unfunded supplemental present value of the retirement system, in existence on September 30, 1977, shall be borne in full by the state.

Any increase in the contribution rate required as the result of a failure of the state or of an employer to make any contribution required by this section shall be borne in full by the state or by that employer not making the contribution.

The director shall notify the retirement board of any pending adjustment in the required contribution rate and such increase shall be announced at a board meeting held at least thirty days prior to the effective date of the change.

Members' contributions required by this section shall be deducted from the members basic salary each payroll period. The members contribution and the employers contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends.

Until such time as the director shall establish other rates, members, employers of such members, and the state shall each contribute the following percentages of basic salary:

Member	8.14%
Employer	4.88%
State	3.28%

In addition, the state shall initially contribute an additional twenty percent of basic salary per member to amortize the unfunded supplemental present value of the retirement system in effect on September 30, 1977. [1977 1st ex.s. c 294 § 6.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 294: See notes following RCW 41.26.400.

41.26.460 Options for payment of retirement allowances. Upon retirement for service as prescribed in RCW 41.26.430, a member shall elect to have the retirement allowance paid pursuant to Option 1, 2, or 3 with Options 2 and 3 calculated so as to be actuarially equivalent to Option 1.

(1) **OPTION 1.** A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall

be paid to such person or persons having an insurable interest in the retiree's life as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(2) **OPTION 2.** A member who elects this option shall receive a reduced retirement allowance, which upon the member's death shall be continued throughout the life of and paid to such person having an insurable interest in the retiree's life as the retiree shall have nominated by written designation duly executed and filed with the department at the time of the retiree's retirement.

(3) **OPTION 3.** A member who elects this option shall receive a reduced retirement allowance, and upon the member's death one-half of the retiree's reduced retirement allowance shall be continued throughout the life of and paid to such person having an insurable interest in the retiree's life as the retiree shall have nominated by written designation duly executed and filed with the department at the time of the retiree's retirement. [1977 1st ex.s. c 294 § 7.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 294: See notes following RCW 41.26.400.

41.26.470 Earned disability allowance. A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department upon recommendation of the retirement board shall be eligible to receive an allowance under the provisions of RCW 41.26.410 through 41.26.550. Such member shall receive a monthly disability allowance computed as provided for in RCW 41.26.420 and shall have such allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age fifty-eight.

Any member who receives an allowance under the provisions of this section shall be subject to such comprehensive medical examinations as required by the department. If such medical examinations reveal that such a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, such member shall cease to be eligible for such allowance. [1977 1st ex.s. c 294 § 8.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 294: See notes following RCW 41.26.400.

41.26.480 Industrial insurance. Notwithstanding any other provision of law, members shall be eligible for industrial insurance as provided by Title 51 RCW, as now or hereafter amended, and shall be included in the payroll of the employer for such purpose. [1977 1st ex.s. c 294 § 9.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 294: See notes following RCW 41.26.400.

41.26.490 Application for and effective date of retirement allowances. Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.26.430, 41.26.470, or 41.26.510 shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members under the provisions of RCW 41.26.430 shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for such an allowance pursuant to RCW 41.26.430, shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members under the provisions of RCW 41.26.470 shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits under the provisions of RCW 41.26.510 shall accrue from the first day of the calendar month immediately following the member's death. [1977 1st ex.s. c 294 § 10.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 294: See notes following RCW 41.26.400.

41.26.500 Suspension of retirement allowance upon reemployment by an employer. No retiree under the provisions of RCW 41.26.410 through 41.26.550 shall be eligible to receive such retiree's monthly retirement allowance if such retiree is performing service for any nonfederal public employer in this state.

Upon cessation of service for any nonfederal public employer in this state such retiree shall have benefits actuarially recomputed pursuant to the rules adopted by the department. [1977 1st ex.s. c 294 § 11.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 294: See notes following RCW 41.26.400.

41.26.510 Death benefits. (1) If a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death shall be paid to such person or persons having an insurable interest in such member's life as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.26.430(1) actuarially adjusted to reflect Option 2 of RCW 41.26.460 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.26.430(2); if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) The member's accumulated contributions. [1977 1st ex.s. c 294 § 12.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 294: See notes following RCW 41.26.400.

41.26.520 Service credit for authorized leave of absence. (1) A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under the provisions of RCW 41.26.410 through 41.26.550.

(2) A member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if the member makes the employer, member, and state contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner: *Provided*, That for the purpose of this subsection the contribution shall not include the contribution for the unfunded supplemental present value as required by RCW 41.26.450. The contributions required shall be based on the average of the member's basic salary at both the time the authorized leave of absence was granted and the time the member resumed employment.

A member who is inducted into the armed forces of the United States shall be deemed to be on an unpaid, authorized leave of absence. [1977 1st ex.s. c 294 § 13.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 294: See notes following RCW 41.26.400.

41.26.530 Vested membership. A member who separates or has separated after having completed at least five years of service may remain a member during the period of such member's absence from service for the exclusive purpose only of receiving a retirement allowance under the provisions of RCW 41.26.430 if such member maintains the member's accumulated contributions intact. [1977 1st ex.s. c 294 § 14.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 294: See notes following RCW 41.26.400.

41.26.540 Refund of contributions on termination. A member who ceases to be an employee of an employer may request a refund of the member's accumulated contributions. The refund shall be made within ninety days following the receipt of the request and notification of termination by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt for such payment. A member who files a request for refund and subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund of accumulated contributions shall terminate all rights to benefits under RCW 41.26.410 through 41.26.550. [1977 1st ex.s. c 294 § 15.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 294: See notes following RCW 41.26.400.

41.26.550 Reentry. A member, who had left service and withdrawn the member's accumulated contributions, shall receive service credit for such prior service if the member restores all withdrawn accumulated contributions together with interest since the time of withdrawal as determined by the department.

The restoration of such funds must be completed within five years of the resumption of service or prior to retirement, whichever occurs first. [1977 1st ex.s. c 294 § 16.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 294: See notes following RCW 41.26.400.

41.26.901 Severability—1977 1st ex.s. c 294. If any provision of *this 1977 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. [1977 1st ex.s. c 294 § 26.]

***Reviser's note:** "this 1977 amendatory act", see note following RCW 41.26.400.

41.26.921 Effective date—1977 1st ex.s. c 294. *This 1977 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 October 1, 1977. [1977 1st ex.s. c 294 § 27.]

***Reviser's note:** "This 1977 amendatory act", see note following RCW 41.26.400.

Chapter 41.32

TEACHERS' RETIREMENT

Sections

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41.32.805	Death benefits.
41.32.810	Service credit for authorized leave of absence.
41.32.815	Vested membership.
41.32.820	Refund of contributions on termination.
41.32.825	Reentry.
41.32.830	Duties of payroll officer.

41.32.005 Applicability of certain sections in chapter only to certain persons. The provisions of the following sections of this chapter shall apply only to those persons who establish membership in the retirement system on or before June 30, 1977: RCW 41.32.250, 41.32.260, 41.32.270, 41.32.280, 41.32.290, 41.32.300, 41.32.310, 41.32.320, 41.32.330, 41.32.340, 41.32.350, 41.32.360, 41.32.365, 41.32.366, 41.32.380, 41.32.390, 41.32.430, 41.32.440, 41.32.470, 41.32.480, 41.32.491, 41.32.492, 41.32.493, 41.32.4931, 41.32.4932, 41.32.494, 41.32.4943, 41.32.4944, 41.32.4945, 41.32.497, 41.32.498, 41.32.4982, 41.32.4983, 41.32.499, 41.32.500, 41.32.510, 41.32.520, 41.32.522, 41.32.523, 41.32.530, 41.32.540, 41.32.550, 41.32.560, 41.32.561, 41.32.565, 41.32.567, 41.32.570, and 41.32.583. [1977 1st ex.s. c 293 § 19.]

Effective date—Severability—1977 1st ex.s. c 293: See notes following RCW 41.32.750.

41.32.010 Definitions. As used in this chapter, unless a different meaning is plainly required by the context:

(1) (a) "Accumulated contributions" for persons who establish membership in the retirement system on or before September 30, 1977, means the sum of all regular annuity contributions with regular interest thereon less cost of operation.

(b) "Accumulated contributions" for persons who establish membership in the retirement system on or after October 1, 1977, means the sum of all contributions standing to the credit of a member in the member's individual account together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables and regulations as shall be adopted by the board of trustees and regular interest.

(3) "Annuity" means the moneys payable per year during life by reason of accumulated contributions of a member.

(4) "Annuity fund" means the fund in which all of the accumulated contributions of members are held.

(5) "Annuity reserve fund" means the fund to which all accumulated contributions are transferred upon retirement.

(6) (a) "Beneficiary" for persons who establish membership in the retirement system on or before September 30, 1977, means any person in receipt of a retirement allowance or other benefit provided for by the teachers' retirement law.

(b) "Beneficiary" for persons who establish membership in the retirement system on or after October 1,

1977, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(7) "Contract" means any agreement for service and compensation between a member and an employer.

(8) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(9) "Dependent" means receiving one-half or more of support from a member.

(10) "Disability allowance" means monthly payments during disability. This subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(11) (a) "Earnable compensation" for persons who establish membership in the retirement system on or before September 30, 1977, means all salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the board of trustees shall fix the value of that part of the compensation not paid in money: *Provided*, That if a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for his two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(b) "Earnable compensation" for persons who establish membership in the retirement system on or after October 1, 1977, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, as reported by the employer on the wage and tax statement submitted to the federal internal revenue service, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay: *Provided*, That in any year in which a member serves in the legislature such member's earnable compensation shall be the greater of:

(i) the earnable compensation the member would have received had such member not served in the legislature; or

(ii) such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under subparagraph (i) of this subsection is greater than compensation earnable under subparagraph (ii) of this subsection shall

be paid by the member for both member and employer contributions.

(12) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(13) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(14) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

(15) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

(16) "Member" means any teacher included in the membership of the retirement system. Also, any other employee of the public schools who, on July 1, 1947, had not elected to exempt himself from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the annuity fund.

(17) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: *Provided*, That where a member is employed by two or more employers during any calendar year he shall not receive more than a total of twelve months of service credit during any such calendar year. The provisions of this subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(18) "Pension" means the moneys payable per year during life from the pension fund.

(19) "Pension fund" means a fund from which all pension obligations are to be paid.

(20) "Pension reserve fund" is a fund in the state treasury in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system.

(21) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(22) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(23) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

(24) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to his individual account in the annuity fund. This subsection shall apply only to persons establishing membership in the retirement system on or before September 30, 1977.

(25) "Regular interest" means such rate as the department may determine.

(26) (a) "Retirement allowance" for persons who establish membership in the retirement system on or before September 30, 1977, means the sum of annuity and pension or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for persons who establish membership in the retirement system on or after October 1, 1977, means monthly payments to a retiree or beneficiary as provided in this chapter.

(27) "Retirement system" means the Washington state teachers' retirement system.

(28) (a) "Service" means the time during which a member has been employed by an employer for compensation: *Provided*, That where a member is employed by two or more employers during any calendar year he shall not receive more than a total of twelve months of service credit during any such calendar year.

(b) "Service" for persons who establish membership in the retirement system on or after October 1, 1977, means periods of employment by a member for one or more employers for which earnable compensation is earned for ninety or more hours per calendar month. Members shall receive twelve months of service for each contract year or school year of employment.

Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive service credit for the time spent in a state elective position by making the required member contributions.

If a member receives earnable compensation from two or more employers during any calendar year such member shall receive a total of not more than twelve months of service for such calendar year.

(29) "Survivors' benefit fund" means the fund from which survivor benefits are paid to dependents of deceased members. This subsection shall apply only to persons establishing membership in the retirement system on or before September 30, 1977.

(30) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity, including state, educational service district, city superintendents and their assistants and certificated employees; and in addition thereto any qualified school librarian, any registered nurse or any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

(31) "Average final compensation" for persons who establish membership in the retirement system on or after October 1, 1977, means the member's average earnable compensation of the highest consecutive sixty months of service prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation.

(32) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(33) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(34) "Director" means the director of the department.

(35) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(36) "State actuary" means the person appointed pursuant to RCW 44.44.010(2).

(37) "Retirement board" means the board of trustees provided for in RCW 41.32.040. [1977 1st ex.s. c 293 § 18; 1975 1st ex.s. c 275 § 149; 1974 ex.s. c 199 § 1; 1969 ex.s. c 176 § 95; 1967 c 50 § 11; 1965 ex.s. c 81 § 1; 1963 ex.s. c 14 § 1; 1955 c 274 § 1; 1947 c 80 § 1; Rem. Supp. 1947 § 4995-20. Prior: 1941 c 97 § 1; 1939 c 86 § 1; 1937 c 221 § 1; 1931 c 115 § 1; 1923 c 187 § 1; 1917 c 163 § 1; Rem. Supp. 1941 § 4995-1.]

Effective date—Severability—1977 1st ex.s. c 293: See notes following RCW 41.32.750.

Emergency—1974 ex.s. c 199: "This 1974 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." [1974 ex.s. c 199 § 7.]

Severability—1974 ex.s. c 199: "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 199 § 8.]

The above annotations apply to RCW 41.32.010, 41.32.260, 41.32-4945, 41.32.497, and 41.32.498.

Construction—1974 ex.s. c 199: "(1) Subsection (3) of section 4 of this 1974 amendatory act relating to elected and appointed officials shall be retroactive to January 1, 1973.

(2) Amendatory language contained in subsection (11) of section 1 relating to members as members of the legislature and in provisos (2) and (3) of section 2 of this 1974 amendatory act shall only apply to those members who are serving as a state senator, state representative or state superintendent of public instruction on or after the effective date of this 1974 amendatory act.

(3) Notwithstanding any other provision of this 1974 amendatory act, RCW 41.32.497 as last amended by section 2, chapter 189, Laws of 1973 1st ex. sess. shall be applicable to any member serving as a state senator, state representative or superintendent of public instruction on the effective date of this 1974 amendatory act." [1974 ex.s. c 199 § 5.]

(1) "Subsection (3) of section 4 of this 1974 amendatory act" is codified as RCW 41.32.498(3).

(2) Amendatory language contained in sections 1 and 2 of this 1974 amendatory act [1974 ex.s. c 199] [Substitute House Bill No. 779] reads as follows:

"Section 1. Section 1, chapter 80, Laws of 1947 as last amended by section 95, chapter 176, Laws of 1969 ex. sess. and RCW 41.32.010 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Accumulated contributions" means the sum of all regular annuity contributions together with regular interest thereon less cost of operation.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables and regulations as shall be adopted by the board of trustees and regular interest.

(3) "Annuity" means the moneys payable per year during life by reason of accumulated contributions of a member.

(4) "Annuity fund" means the fund in which all of the accumulated contributions of members are held.

(5) "Annuity reserve fund" means the fund to which all accumulated contributions are transferred upon retirement.

(6) "Beneficiary" means any person in receipt of a retirement allowance or other benefit provided for by the teachers' retirement law.

(7) "Contract" means any agreement for service and compensation between a member and an employer.

(8) "Creditable service" means membership service plus prior service for which credit is allowable.

(9) "Dependent" means receiving one-half or more of support from a member.

(10) "Disability allowance" means monthly payments during disability.

(11) "Earnable compensation" means all salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the board of trustees shall fix the value of that part of the compensation not paid in money: Provided, That if a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature 5 or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for 5 or more years, earnable compensation for his two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(12) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(13) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(14) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

(15) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

(16) "Member" means any teacher included in the membership of the retirement system. Also, any other employee of the public schools who, on July 1, 1947, had not elected to exempt himself from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the annuity fund.

(17) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: Provided, That where a member is employed by two or more employers during any calendar year he shall not receive more than a total of twelve months of service credit during any such calendar year.

(18) "Pension" means the moneys payable per year during life from the pension fund.

(19) "Pension fund" means a fund from which all pension obligations are to be paid.

(20) "Pension reserve fund" is a fund in the state treasury in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system.

(21) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable.

(22) "Prior service contributions" means contributions made by a member to secure credit for prior service.

(23) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

(24) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to his individual account in the annuity fund.

(25) "Regular interest" means the interest on funds of the retirement system for the current school year and such other earnings as may be applied thereon by the board of trustees.

(26) "Retirement allowance" means the sum of annuity and pension or any optional benefits payable in lieu thereof.

(27) "Retirement system" means the Washington state teachers' retirement system.

(28) "Service" means the time during which a member has been employed by an employer for compensation: Provided, That where a member is employed by two or more employers during any calendar year he shall not receive more than a total of twelve months of service credit during any such calendar year.

(29) "Survivors' benefit fund" means the fund from which survivor benefits are paid to dependents of deceased members.

(30) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity, including state, intermediate school district, city superintendents and their assistants and certificated employees; and in addition

thereto any qualified school librarian, any registered nurse or any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

Sec. 2. Section 26, chapter 80, Laws of 1947 as last amended by section 1, chapter 189, Laws of 1973 1st ex. sess. and RCW 41.32.260 are each amended to read as follows:

Any member whose public school service is interrupted by active service to the United States as a member of its military, naval or air service, or to the state of Washington, as a member of the legislature, may upon becoming reemployed in the public schools, receive credit for such service upon presenting satisfactory proof, and contributing to the annuity fund, either in a lump sum or installments, such amounts as shall be determined by the board of trustees: Provided (1), That no such military service credit in excess of five years shall be established or reestablished after July 1, 1961, unless the service was actually rendered during time of war: Provided further (2), That a member of the retirement system who is a member of the state legislature or a state official eligible for the combined pension and annuity provided by RCW 41.32.497, or 41.32.498, as now or hereafter amended shall have deductions taken from his salary in the amount of ~~[(seven and one-half)] six~~ percent of earnable compensation and that service credit shall be established with the retirement system while such deductions are reported to the retirement system, unless he has by reason of his employment become a contributing member of another public retirement system in the state of Washington: And provided further (3), That such elected official who has retired or otherwise terminated his public school service may then elect to terminate his membership in the retirement system and receive retirement benefits while continuing to serve as an elected official: And, provided further (4), That a member of the retirement system who had previous service as an elected or appointed official, for which he did not contribute to the retirement system, may receive credit for such legislative service unless he has received credit for that service in another state retirement system, upon making contributions in such amounts as shall be determined by the board of trustees."

Reviser's note: The change above in proviso (2) was vetoed by the governor, thus retaining the seven and one-half percent figure; see veto message as attached to chapter 199, Laws of 1974 ex. sess.

(3) (a) "this 1974 amendatory act" is codified in RCW 41.32.010, 41.32.260, 41.32.497, 41.32.498 and 41.32.4945.

(b) "the effective date of this 1974 amendatory act" [1974 ex.s. c 199] is May 6, 1974.

Effective date—1969 ex.s. c 176: The effective date of this section and RCW 41.32.420 is April 25, 1969.

Effective date—1967 c 50: "This 1967 amendatory act shall take effect on July 1, 1967." [1967 c 50 § 12.]

Severability—1967 c 50: "If any provision of this 1967 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1967 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1967 c 50 § 13.]

The foregoing annotations apply to the 1967 amendments of RCW 41.32.010, 41.32.250, 41.32.260, 41.32.280, 41.32.420, 41.32.430, 41.32.500, 41.32.520, 41.32.522, 41.32.523, and 41.32.550.

Severability—1965 ex.s. c 81: "If any provision of this act is held to be invalid the remainder of this act shall not be affected." [1965 ex.s. c 81 § 9.]

Effective date—1965 ex.s. c 81: "The effective date of this act is July 1, 1965." [1965 ex.s. c 81 § 10.]

The foregoing annotations apply to the 1965 amendments of RCW 41.32.010, 41.32.200, 41.32.240, 41.32.470, 41.32.500, 41.32.520, 41.32.523, and 41.32.310.

Saving—1963 ex.s. c 14: "The amendment of any section by this 1963 act shall not be construed as impairing any existing right acquired or any liability incurred by any member under the provisions of the section amended; nor shall it affect any vested right of any former member who reenters public school employment or becomes reinstated as a member subsequent to the effective date of such act." [1963 ex.s. c 14 § 23.]

Severability—1963 ex.s. c 14: "If any provision of this act is held to be invalid the remainder of the act shall not be affected." [1963 ex.s. c 14 § 24.]

Effective date—1963 ex.s. c 14: "The effective date of this act is July 1, 1964." [1963 ex.s. c 14 § 26.]

The foregoing annotations apply to the 1963 amendments of RCW 41.32.010, 41.32.030, 41.32.200, 41.32.240, 41.32.300, 41.32.320, 41.32.350, 41.32.360, 41.32.410, 41.32.420, 41.32.430, 41.32.470, 41.32.510, 41.32.540, 41.32.550; also to the 1963 repeals of RCW 41.32.270, 41.32.400 and 41.32.450; also to RCW 41.32.365, 41.32.401, 41.32.497, 41.32.522 and 41.32.523.

41.32.750 Legislative finding. The legislature finds and determines that those members first employed on or before September 30, 1977, shall not suffer any diminishment or loss of benefits or rights, whether current or prospective, as the result of the enactment of *this 1977 amendatory act. [1977 1st ex.s. c 293 § 1.]

*Reviser's note: "this 1977 amendatory act" (1977 1st ex.s. c 293) consists of RCW 41.32.005, 41.32.750 through 41.32.830, and the 1977 amendment to RCW 41.32.010.

Effective date—1977 1st ex.s. c 293: "This 1977 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 October 1, 1977." [1977 1st ex.s. c 293 § 23.]

Severability—1977 1st ex.s. c 293: "If any provision of this 1977 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." [1977 1st ex.s. c 293 § 22.]

Legislative direction and placement—1977 1st ex.s. c 293: "Sections 1 through 17 of this 1977 amendatory act shall be added to chapter 41.32 RCW and shall be codified as consecutive sections of the Revised Code of Washington within such chapter." [1977 1st ex.s. c 293 § 21.]

Section headings—1977 1st ex.s. c 293: "Section headings used in this 1977 amendatory act shall not constitute any part of the law." [1977 1st ex.s. c 293 § 20.]

The two foregoing annotations apply to RCW 41.32.750 through 41.32.830.

41.32.755 Application to certain persons. RCW 41.32.760 through 41.32.825 shall apply only to those persons who are initially employed by an employer on or after October 1, 1977. [1977 1st ex.s. c 293 § 2.]

Effective date—Severability—Legislative direction and placement—Section headings—1977 1st ex.s. c 293: See notes following RCW 41.32.750.

41.32.760 Computation of the retirement allowance. A member of the retirement system shall receive a retirement allowance equal to two percent of such member's average final compensation for each year of service. [1977 1st ex.s. c 293 § 3.]

Effective date—Severability—Legislative direction and placement—Section headings—1977 1st ex.s. c 293: See notes following RCW 41.32.750.

41.32.765 Retirement for service. (1) **NORMAL RETIREMENT.** Any member with at least five years of service who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760.

(2) **EARLY RETIREMENT.** Any member who has completed at least twenty years of service who has attained at least age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.32.760, except that a member retiring pursuant to this subsection shall have

the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five. [1977 1st ex.s. c 293 § 4.]

Effective date—Severability—Legislative direction and placement—Section headings—1977 1st ex.s. c 293: See notes following RCW 41.32.750.

41.32.770 Post-retirement cost-of-living. Beginning July 1, 1979, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

(1) The original dollar amount of the retirement allowance;

(2) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";

(3) The index for the calendar year prior to the date of determination, to be known as "index B"; and

(4) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the original retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

(a) Produce a retirement allowance which is lower than the original retirement allowance;

(b) Exceed three percent in the initial annual adjustment; or

(c) Differ from the previous year's annual adjustment by more than three percent.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index—Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor. [1977 1st ex.s. c 293 § 5.]

Effective date—Severability—Legislative direction and placement—Section headings—1977 1st ex.s. c 293: See notes following RCW 41.32.750.

41.32.775 Employer and member contributions. The required contribution rates to the retirement system for both members and employers shall be established by the director from time to time as may be necessary upon the advice of the state actuary: *Provided*, That the employer contribution shall be contributed as provided in RCW 41.32.401.

Contribution rates required to fund the costs of the retirement system shall always be equal for members and employers, except as herein provided. Any adjustments in contribution rates required from time to time for future costs shall likewise be shared equally by the members and employers: *Provided*, That the costs of amortizing the unfunded supplemental present value of the retirement system, in existence on September 30, 1977, shall be borne in full by the employers.

Any increase in the contribution rate required as the result of a failure of an employer to make any contribution required by this section shall be borne in full by the employer not making the contribution.

The director shall notify the retirement board of any pending adjustment in the required contribution rate and such increase shall be announced at a board meeting held at least thirty days prior to the effective date of the change.

Members contributions required by this section shall be deducted from the members earnable compensation each payroll period. The members contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends and the employers contribution shall be remitted as provided by law.

Until such time as the director shall establish other rates, members and employers of such members shall each contribute 5.66% of earnable compensation: *Provided*, That employers shall initially contribute an additional 5.80% of earnable compensation per member to amortize the unfunded supplemental present value of the retirement system in effect on September 30, 1977. [1977 1st ex.s. c 293 § 6.]

Effective date—Severability—Legislative direction and placement—Section headings—1977 1st ex.s. c 293: See notes following RCW 41.32.750.

41.32.780 Teachers required to be members. All teachers who become employed by an employer on or after October 1, 1977, shall be members of the retirement system and shall be governed by the provisions of RCW 41.32.755 through 41.32.825. [1977 1st ex.s. c 293 § 7.]

Effective date—Severability—Legislative direction and placement—Section headings—1977 1st ex.s. c 293: See notes following RCW 41.32.750.

41.32.785 Options for payment of retirement allowances. Upon retirement for service as prescribed in RCW 41.32.765, a member shall elect to have the retirement allowance paid pursuant to Option 1, 2, or 3 with Options 2 and 3 calculated so as to be actuarially equivalent to Option 1.

(1) **OPTION 1.** A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to such person or persons having an insurable interest in the retiree's life as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(2) **OPTION 2.** A member who elects this option shall receive a reduced retirement allowance, which upon the member's death shall be continued throughout the life of and paid to such person having an insurable interest in the retiree's life as the retiree shall have nominated by written designation duly executed and

filed with the department at the time of the retiree's retirement.

(3) **OPTION 3.** A member who elects this option shall receive a reduced retirement allowance, and upon the member's death one-half of the retiree's reduced retirement allowance shall be continued throughout the life of and paid to such person having an insurable interest in the retiree's life as the retiree shall have nominated by written designation duly executed and filed with the department at the time of the retiree's retirement. [1977 1st ex.s. c 293 § 8.]

Effective date—Severability—Legislative direction and placement—Section headings—1977 1st ex.s. c 293: See notes following RCW 41.32.750.

41.32.790 Earned disability allowance. A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department upon recommendation of the retirement board shall be eligible to receive an allowance under the provisions of RCW 41.32.755 through 41.32.825. Such member shall receive a monthly disability allowance computed as provided for in RCW 41.32.760 and shall have such allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

Any member who receives an allowance under the provisions of this section shall be subject to such comprehensive medical examinations as required by the department. If such medical examinations reveal that such a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, such member shall cease to be eligible for such allowance. [1977 1st ex.s. c 293 § 9.]

Effective date—Severability—Legislative direction and placement—Section headings—1977 1st ex.s. c 293: See notes following RCW 41.32.750.

41.32.795 Application for and effective date of retirement allowances. Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.32.765, 41.32.790, or 41.32.805 shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members under the provisions of RCW 41.32.765 shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for such an allowance pursuant to RCW 41.32.765, shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members under the provisions of RCW 41.32.790 shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits under the provisions of RCW 41.32.805 shall accrue from the first day of the calendar month immediately following the member's death. [1977 1st ex.s. c 293 § 10.]

~~Effective date—Severability—Legislative direction and placement—Section headings—1977 1st ex.s. c 293: See notes following RCW 41.32.750.~~

41.32.800 Suspension of retirement allowance upon reemployment by an employer. No retiree under the provisions of RCW 41.32.755 through 41.32.825 shall be eligible to receive such retiree's monthly retirement allowance if such retiree is performing service for any nonfederal public employer in this state.

Upon cessation of service for any nonfederal public employer in this state such retiree shall have benefits actuarially recomputed pursuant to the rules adopted by the department. [1977 1st ex.s. c 293 § 11.]

~~Effective date—Severability—Legislative direction and placement—Section headings—1977 1st ex.s. c 293: See notes following RCW 41.32.750.~~

41.32.805 Death benefits. (1) If a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death shall be paid to such person or persons having an insurable interest in such member's life as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.32.765(1) actuarially adjusted to reflect Option 2 of RCW 41.32.785 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.32.765(2); if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) The member's accumulated contributions. [1977 1st ex.s. c 293 § 12.]

~~Effective date—Severability—Legislative direction and placement—Section headings—1977 1st ex.s. c 293: See notes following RCW 41.32.750.~~

41.32.810 Service credit for authorized leave of absence. A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under the provisions of RCW 41.32.755 through 41.32.825.

A member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if the member makes both the employer and member contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner: *Provided*, That for the purpose of this subsection [section] the contribution shall not include the contribution for the unfunded supplemental present value as required by RCW 41.32.775. The contributions required shall be based on the average of the member's compensation earnable at both the time the authorized leave of absence was granted and the time the member resumed employment.

A member who is inducted into the armed forces of the United States shall be deemed to be on an unpaid, authorized leave of absence. [1977 1st ex.s. c 293 § 13.]

~~Effective date—Severability—Legislative direction and placement—Section headings—1977 1st ex.s. c 293: See notes following RCW 41.32.750.~~

41.32.815 Vested membership. A member who separates or has separated after having completed at least five years of service may remain a member during the period of such member's absence from service for the exclusive purpose only of receiving a retirement allowance under the provisions of RCW 41.32.765 if such member maintains the member's accumulated contributions intact. [1977 1st ex.s. c 293 § 14.]

~~Effective date—Severability—Legislative direction and placement—Section headings—1977 1st ex.s. c 293: See notes following RCW 41.32.750.~~

41.32.820 Refund of contributions on termination. A member who ceases to be an employee of an employer may request a refund of the members accumulated contributions. The refund shall be made within ninety days following the receipt of the request and notification of termination by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt of request for such payment. A member who files a request for refund and subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund of accumulated contributions shall terminate all benefits under the provisions of RCW 41.32.755 through 41.32.825. [1977 1st ex.s. c 293 § 15.]

Effective date—Severability—Legislative direction and placement—Section headings—1977 1st ex.s. c 293: See notes following RCW 41.32.750.

41.32.825 Reentry. A member, who had left service and withdrawn the member's accumulated contributions, shall receive service credit for such prior service if the member restores all withdrawn accumulated contributions together with interest since the time of withdrawal as determined by the department. The restoration of such funds must be completed within five years of the resumption of service or prior to retirement, whichever occurs first. [1977 1st ex.s. c 293 § 16.]

Effective date—Severability—Legislative direction and placement—Section headings—1977 1st ex.s. c 293: See notes following RCW 41.32.750.

41.32.830 Duties of payroll officer. The person responsible for making up the payroll shall transmit promptly to the department at the end of each and every payroll period a copy of the original payroll voucher or such other payroll report as the department may require showing thereon all deductions for contributions for the teachers' retirement system made from the earnable compensation of a member of the teachers' retirement system together with warrants or checks covering the total of such deductions. The department shall place such moneys into the proper funds established in this chapter. [1977 1st ex.s. c 293 § 17.]

Effective date—Severability—Legislative direction and placement—Section headings—1977 1st ex.s. c 293: See notes following RCW 41.32.750.

Chapter 41.40

WASHINGTON PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Sections

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41.40.740	Reentry.
41.40.900	Severability—1977 1st ex.s. c 295.
41.40.920	Effective date—1977 1st ex.s. c 295.

41.40.005 Applicability of certain sections in chapter only to persons who establish membership in the retirement system on or before September 30, 1977. The provisions of the following sections of this chapter shall apply only to persons who establish membership in the retirement system on or before September 30, 1977: RCW 41.40.150, 41.40.160, 41.40.170, 41.40.180, 41.40.185, 41.40.190, 41.40.193, 41.40.195, 41.40.200, 41.40.210, 41.40.220, 41.40.230, 41.40.235, 41.40.250, 41.40.260, 41.40.280, 41.40.300, 41.40.310, 41.40.320, and 41.40.330. [1977 1st ex.s. c 295 § 21.]

41.40.010 Terms defined. As used in this chapter, unless a different meaning is plainly required by the context:

- (1) "Retirement system" means the public employees' retirement system provided for in this chapter.
- (2) "Retirement board" means the board provided for in this chapter and chapter 41.26 RCW.
- (3) "State treasurer" means the treasurer of the state of Washington.
- (4) (a) "Employer" for persons who establish membership in the retirement system on or before September 30, 1977, means every branch, department, agency, commission, board, and office of the state, any political subdivision or association of political subdivisions of the state admitted into the retirement system, and legal entities authorized by RCW 36.70.060 and 35.63.070 or chapter 39.34 RCW as now or hereafter amended; and the term shall also include any labor guild, association, or organization the membership of a local lodge or division of which is comprised of at least forty percent employees of an employer (other than such labor guild, association, or organization) within this chapter. The term may also include any city of the first class that has its own retirement system.
- (b) "Employer" for persons who establish membership in the retirement system on or after October 1, 1977, means every branch, department, agency, commission,

board, and office of the state, and any political subdivision and municipal corporation of the state admitted into the retirement system, including public agencies created pursuant to RCW 36.70.060, 35.63.070, and 39.34.030.

(5) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.40.120.

(6) "Original member" of this retirement system means:

(a) Any person who became a member of the system prior to April 1, 1949;

(b) Any person who becomes a member through the admission of an employer into the retirement system on and after April 1, 1949, and prior to April 1, 1951;

(c) Any person who first becomes a member by securing employment with an employer prior to April 1, 1951, provided he has rendered at least one or more years of service to any employer prior to October 1, 1947;

(d) Any person who first becomes a member through the admission of an employer into the retirement system on or after April 1, 1951, provided, such person has been in the regular employ of the employer for at least six months of the twelve-month period preceding the said admission date;

(e) Any member who has restored all his contributions that may have been withdrawn by him as provided by RCW 41.40.150 and who on the effective date of his retirement becomes entitled to be credited with ten years or more of membership service except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member;

(f) Any member who has been a contributor under the system for two or more years and who has restored all his contributions that may have been withdrawn by him as provided by RCW 41.40.150 and who on the effective date of his retirement has rendered five or more years of service for the state or any political subdivision prior to the time of the admission of the employer into the system; except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member.

(7) "New member" means a person who becomes a member on or after April 1, 1949, except as otherwise provided in this section.

(8) (a) "Compensation earnable" for persons who establish membership in the retirement system on or before September 30, 1977, means salaries or wages earned during a payroll period for personal services and where the compensation is not all paid in money maintenance compensation shall be included upon the basis of the schedules established by the member's employer: *Provided*, That if a leave of absence is taken by an individual for the purpose of serving in the state legislature, the salary which would have been received for the position from which the leave of absence was taken, shall be considered as compensation earnable if the employee's contribution is paid by the employee and the employer's contribution is paid by the employer or employee.

(b) "Compensation earnable" for persons who establish membership in the retirement system on or after October 1, 1977, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, as reported by the employer on the wage and tax statement submitted to the federal internal revenue service, but shall exclude nonmoney maintenance compensation and lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay: *Provided*, That in any year in which a member serves in the legislature such member's compensation earnable shall be the greater of:

(i) the compensation earnable the member would have received had such member not served in the legislature; or

(ii) such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under subparagraph (i) of this subsection is greater than compensation earnable under subparagraph (ii) of this subsection shall be paid by the member for both member and employer contributions.

(9) (a) "Service" for persons who establish membership in the retirement system on or before September 30, 1977, means periods of employment rendered to any employer for which compensation is paid, and includes time spent in office as an elected or appointed official of an employer. Full time work for ten days or more or an equivalent period of work in any given calendar month shall constitute one month of service. Only months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Years of service shall be determined by dividing the total number of months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits. Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state employee: *Provided*, That service to any other public agency shall not be considered service as a state employee if such service has been used to establish benefits in any other public retirement system: *Provided further*, That where an individual is employed by two employers he shall only receive a total of twelve months of service credit during any calendar year.

(b) "Service" for persons who establish membership in the retirement system on or after October 1, 1977, means periods of employment by a member for one or more employers for which compensation earnable is earned for ninety or more hours per calendar month.

Years of service shall be determined by dividing the total number of months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits.

Members employed by school districts, the state school for the blind, the state school for the deaf, institutions of higher education, or community colleges shall

receive twelve months of service for each contract year or school year of employment.

Service in any state elective position shall be deemed to be full time service, except that persons serving in state elective positions who are members of the teachers' retirement system or law enforcement officers' and fire fighters' retirement system at the time of election or appointment to such position may elect to continue membership in the teachers' retirement system or law enforcement officers' and fire fighters' retirement system.

If a member receives compensation earnable from two or more employers during any calendar year such member shall receive a total of not more than twelve months of service for such calendar year.

(10) "Prior service" means all service of an original member rendered to any employer prior to October 1, 1947.

(11) "Membership service" means:

(a) All service rendered, as a member, after October 1, 1947;

(b) All service after October 1, 1947, to any employer prior to the time of its admission into the retirement system: *Provided*, That an amount equal to the employer and employee contributions which would have been paid to the retirement system on account of such service shall have been paid to the retirement system with interest (as computed by the retirement board) on the employee's portion prior to retirement of such person, by the employee or his employer, except as qualified by RCW 41.40.120;

(c) Service not to exceed six consecutive months of probationary service rendered after April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member, prior to July 1, 1974 of the total amount of the employer's contribution to the retirement fund which would have been required under the law in effect when such probationary service was rendered if the member had been a member during such period.

(d) Service not to exceed six consecutive months of probationary service, rendered after October 1, 1947, and before April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member prior to July 1, 1974, of five percent of such member's salary during said period of probationary service.

(12) (a) "Beneficiary" for persons who establish membership in the retirement system on or before September 30, 1977, means any person in receipt of a retirement allowance, pension or other benefit provided by this chapter.

(b) "Beneficiary" for persons who establish membership in the retirement system on or after October 1, 1977, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(13) "Regular interest" means such rate as the department may determine.

(14) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in

his individual account together with the regular interest thereon.

(15) (a) "Average final compensation" for persons who establish membership in the retirement system on or before September 30, 1977, means the annual average of the greatest compensation earnable by a member during any consecutive two year period of service for which service credit is allowed; or if he has less than two years of service then the annual average compensation earnable during his total years of service for which service credit is allowed.

(b) "Average final compensation" for persons who establish membership in the retirement system on or after October 1, 1977, means the member's average compensation earnable of the highest consecutive sixty months of service prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation.

(16) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of his employment.

(17) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(18) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(19) "Retirement allowance" means the sum of the annuity and the pension.

(20) "Employee" means any person who may become eligible for membership under this chapter, as set forth in RCW 41.40.120.

(21) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the retirement board.

(22) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(23) "Eligible position" means:

(a) Any position which normally requires five or more uninterrupted months of service a year for which regular compensation is paid to the occupant thereof;

(b) Any position occupied by an elected official or person appointed directly by the governor for which compensation is paid.

(24) "Ineligible position" means any position which does not conform with the requirements set forth in subdivision (23).

(25) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(26) "Totally incapacitated for duty" means total inability to perform the duties of a member's employment or office or any other work for which the member is qualified by training or experience.

(27) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(28) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(29) "Director" means the director of the department.

(30) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(31) "State actuary" means the person appointed pursuant to RCW 44.44.010(2). [1977 1st ex.s. c 295 § 16; 1973 1st ex.s. c 190 § 2; 1972 ex.s. c 151 § 1; 1971 ex.s. c 271 § 2; 1969 c 128 § 1; 1965 c 155 § 1; 1963 c 225 § 1; 1963 c 174 § 1; 1961 c 291 § 1; 1957 c 231 § 1; 1955 c 277 § 1; 1953 c 200 § 1; 1951 c 50 § 1; 1949 c 240 § 1; 1947 c 274 § 1; Rem. Supp. 1949 § 11072-1.]

Severability—1973 1st ex.s. c 190: "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 190 § 16.] This applies to RCW 41.32.565, 41.40.010, 41.40.011, 41.40.030, 41.40.100, 41.40.120, 41.40.150, 41.40.170, 41.40.180, 41.40.185, 41.40.190, 41.40.193, 41.40.195, 41.40.330 and 41.40.361.

Effective date of certain subsections—1973 1st ex.s. c 190: See RCW 41.40.011.

Severability—1971 ex.s. c 271: See note following RCW 41.32.260.

Severability—1969 c 128: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 c 128 § 19.] This applies to the 1969 amendment of RCW 41.40.010, 41.40.020, 41.40.071, 41.40.080, 41.40.120, 41.40.150, 41.40.170, 41.40.190, 41.40.230, 41.40.250, 41.40.270, 41.40.330, 41.40.410-41.40.414, and the repeal of RCW 41.40.290, 41.40.416-41.40.419 and 41.40.430.

Severability—1965 c 155: "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." [1965 c 155 § 10.] This applies to RCW 41.40.010, 41.40.071, 41.40.120, 41.40.150, 41.40.160, 41.40.270, 41.40.290, and 41.40.310.

Severability—1963 c 174: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1963 c 174 § 19.] This applies to RCW 41.40.010, 41.40.030, 41.40.040, 41.40.060, 41.40.070, 41.40.080, 41.40.100, 41.40.150, 41.40.160, 41.40.170, 41.40.180, 41.40.260, 41.40.270, 41.40.310, 41.40.361, 41.40.410, 41.40.412 and 41.40.420.

Severability—1961 c 291: "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." [1961 c 291 § 18.] This applies to the 1961 amendments of RCW 41.40.010, 41.40.030, 41.40.040, 41.40.065, 41.40.190, 41.40.220, 41.40.250, 41.40.270, 41.40.290, 41.40.361, 41.40.370, 41.40.410 and the 1961 repeal of 41.32.495, 41.32.496, 41.40.085, and 41.40.087.

41.40.030 Retirement board—Election, terms. The retirement board shall consist of twelve members, as follows: Four members of the public appointed by the governor with the advice and consent of the senate, the members provided by RCW 41.26.050, and four elected representatives who shall have been members of the retirement system for at least five years, and each of whom shall be elected by active or retired members in their classification for a term of three years: *Provided*, That the term of office of any employee representative serving as a member of the retirement board by appointment prior to March 21, 1961 shall continue until the expiration of the period of time for which such employee representative was appointed, except those board members provided by RCW 41.26.050. The active

and retired members of the system shall be divided into four classifications for purposes of board representation as follows: Classification A shall consist of all employees of the state government; classification B shall consist of all employees of counties; classification C shall consist of all retired members; and classification D shall consist of all members not included in classification A, B, or C. Each member shall have the right to vote only for an employee representative from his respective classification.

The initial term of the representative from classification C shall begin July 1, 1974.

Any active or retired member desiring to become a candidate to represent active or retired members in his classification may during the first two weeks of April of the year in which the vacancy in the classification occurs, file with the director of the system a typewritten statement that he desires to be a candidate for the board. The letter supporting his candidacy must be signed by at least twenty members of the retirement system in his classification. The election shall be conducted under the supervision of the retirement board pursuant to such rules as the board shall prescribe, but shall be so conducted that the voting shall be secret and the ballots may be returned by mail. Ballots in order to be counted shall be received by the director not later than the second Monday in June. The board shall thereupon proceed to count the ballots and shall certify to the secretary of state the candidate receiving the highest number of votes.

The terms of all elected representatives shall commence on the first day of July following their election. [1977 1st ex.s. c 34 § 1; 1974 ex.s. c 195 § 1; 1973 1st ex.s. c 190 § 3; 1971 ex.s. c 271 § 3; 1963 c 174 § 2; 1961 c 291 § 2; 1947 c 274 § 3; Rem. Supp. 1947 § 11072-3.]

Severability—1974 ex.s. c 195: "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 195 § 14.] This applies to the amendments to RCW 41.40.030, 41.40.120, 41.40.150 and 41.40.380, and to RCW 41.40.515 through 41.40.522.

Severability—1973 1st ex.s. c 190: See note following RCW 41.40.010.

Severability—1971 ex.s. c 271: See note following RCW 41.32.260.

41.40.077 Investments—Exercise of judgment and care required. Any investments under RCW 43.84-.150 shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived. [1977 1st ex.s. c 251 § 9.]

41.40.165 Service credit prohibited for certain members of committees, boards, and commissions and for certain appointive and elective officials. No person appointed to membership on any committee, board, or commission on or after July 1, 1976, who is compensated

for service on such committee, board, or commission for less than ten days or seventy hours in any month, whichever amount is less, shall receive service credit for such service for that month: *Provided*, That on and after October 1, 1977, appointive and elective officials who receive monthly compensation earnable from an employer in an amount equal to or less than ninety times the state minimum hourly wage shall not receive any service credit for such employment. [1977 1st ex.s. c 295 § 17; 1975-'76 2nd ex.s. c 34 § 4.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

41.40.340 Members agree to deductions. The deductions from the compensation of members, provided for in RCW 41.40.330 or 41.40.650, shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for in this chapter and shall receipt in full for his salary or compensation, and payment less said deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to benefits provided for under this chapter. [1977 1st ex.s. c 295 § 18; 1947 c 274 § 35; Rem. Supp. 1947 § 11072-35.]

41.40.350 Transmittal of total of members' deductions. The person responsible for making up the payroll shall transmit promptly to the department at the end of each and every payroll period a copy of the original payroll voucher or such other payroll report as the department may require showing thereon all deductions for the retirement system made from the compensation earnable of each member, together with warrants or checks covering the total of such deductions. The department after making a record of all such receipts shall pay them to the state treasurer for use according to the provisions of this chapter. [1977 1st ex.s. c 295 § 19; 1947 c 274 § 36; Rem. Supp. 1947 § 11072-36.]

41.40.370 Employer's contribution—Computation—Billing. (1) The department shall ascertain and report to each employer the amount it shall provide for pension benefits for the ensuing biennium or fiscal year whichever is applicable to the said employer's operations. The amount to be so provided shall be computed by applying the rates of contribution as established by RCW 41.40.361 or 41.40.650 to an estimate of the total compensation earnable of all the said employer's members during the period for which provision is to be made.

(2) Beginning April 1, 1949, or October 1, 1977, as the case may be, the amount to be collected as the employer's contribution for pension benefits shall be computed by applying the applicable rates established by RCW 41.40.361 or 41.40.650 to the total compensation earnable of employer's members as shown on the current payrolls of the said employer. The department shall bill each said employer at the end of each month for the amount due for that month and the same shall be paid

as are its other obligations: *Provided*, That the department may, at its discretion, establish a system of billing based upon calendar year quarters in which event the said billing shall be at the end of each such quarter and shall be based upon the employer's payrolls for that quarter.

(3) In the event of failure, for any reason, of an employer other than a political subdivision of the state to have remitted amounts due for membership service of any of the employer's members rendered during a prior biennium, the department shall bill such employer through the director of the office of program planning and fiscal management for such employer's contribution. Such billing shall be paid by the employer as, and the same shall be, a proper charge against any moneys available or appropriated to such employer for payment of current biennial payrolls. If any such employer shall fail or refuse to honor such a billing, the director of the office of program planning and fiscal management shall cause the same to be paid from any funds appropriated to the director of the office of program planning and fiscal management for such purposes. [1977 1st ex.s. c 295 § 20; 1963 c 126 § 1; 1961 c 291 § 12; 1949 c 240 § 26; 1947 c 274 § 38; Rem. Supp. 1947 § 11072-38.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

41.40.515 Optional entry of classified employees of University of Washington, the regional universities, and The Evergreen State College—Definitions. For the purposes of this chapter, unless a different meaning is plainly required by context:

(1) "Classified employees" shall mean all nonacademic employees of the University of Washington and the regional universities and The Evergreen State College, as defined in RCW 28B.10.015 as now or hereafter amended, who are presently participating, or are presently eligible to participate, in the retirement plan of their employing education institution: *Provided*, That the following nonacademic employees of the University of Washington shall not be included as classified employees for the purposes of *this 1974 amendatory act: The president of the university; deans, directors, and chairmen of academic or research units; persons employed in a position scheduled for less than twenty hours per week or on an intermittent employment schedule; persons employed in a position primarily as an incident to and in furtherance of their education and training or the education and training of a spouse: *Provided further*, That the following nonacademic employees of each of the regional universities and The Evergreen State College shall not be included as classified employees for the purposes of *this 1974 amendatory act: Presidents, academic vice presidents or provosts, deans, chairmen of academic departments, and executive heads of major academic divisions and their principal assistants.

(2) "Retirement plan" shall mean the retirement systems established by the board of regents of the University of Washington and the boards of trustees of each of the regional universities and The Evergreen State College pursuant to authority heretofore conferred by law

for the purpose of providing retirement income and related benefits to certain employees through private insurers.

(3) "Board" shall mean the retirement board as provided for in RCW 41.40.020, as now or hereafter amended.

(4) "Employer share" shall mean one-half or fifty percent of the total of any employee's accumulation and/or cash value in the contract(s) attributable to contributions made in accordance with the retirement plan.

(5) "Applicable income" shall mean that income which would have qualified as compensation earnable within the meaning of RCW 41.40.010(8) during each month of University of Washington, regional university, or state college service from the date of such person's initial participation in the retirement plan.

(6) "Contributing membership" shall mean that period of time during which an employee was making contributions under the retirement plan for purposes of being eligible for a retirement entitlement. [1977 1st ex.s. c 169 § 97; 1974 ex.s. c 195 § 5.]

***Reviser's note:** "this 1974 amendatory act" [1974 ex.s. c 195] consists of RCW 41.40.515 through 41.40.522 and also amendments to RCW 41.40.030, 41.40.120, 41.40.150 and 41.40.380.

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Severability—1974 ex.s. c 195: See note following RCW 41.40.030.

"State universities", "regional universities", "state college", "institutions of higher education" and "postsecondary institutions" defined: RCW 28B.10.016.

41.40.516 Optional entry of classified employees of University of Washington, the regional universities, and The Evergreen State College—Transfer authorized—When membership mandatory—Election. (1) On and after May 6, 1974, and until January 1, 1975, classified employees presently members of the retirement plan may irrevocably transfer their years of contributing membership therein to the Washington public employees' retirement system, such transfer being subject to such conditions and limitations as hereinafter set forth in *this 1974 amendatory act, including rules and regulations promulgated to effect the purposes of *this 1974 amendatory act.

(2) All classified employees employed by the University of Washington or each of the regional universities or The Evergreen State College on and after May 6, 1974, and otherwise eligible shall become members of the Washington public employees' retirement system at such institution unless otherwise hereafter provided by law: *Provided*, That persons who, immediately prior to the date of their hiring as classified employees, have for at least two consecutive years held membership in a retirement plan underwritten by the private insurer of the retirement plan of their respective educational institution may irrevocably elect to continue their membership in the retirement plan notwithstanding the provisions of this chapter, if such election is made within thirty days from the date of their hiring as classified employees. If such persons elect to become members of the public employees' retirement system, contributions by them and their employers shall be required from their first day of

such employment. [1977 1st ex.s. c 169 § 98; 1974 ex.s. c 195 § 6.]

***Reviser's note:** "this 1974 amendatory act" [1974 ex.s. c 195] consists of RCW 41.40.515 through 41.40.522 and also amendments to RCW 41.40.030, 41.40.120, 41.40.150 and 41.40.380.

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Severability—1974 ex.s. c 195: See note following RCW 41.40.030.

41.40.517 Optional entry of classified employees of University of Washington, regional universities, and The Evergreen State College—Amounts to be transferred.

(1) Except as otherwise provided in this chapter, upon election by a person to transfer his years of contributing membership to the Washington public employees' retirement system, as authorized in RCW 41.40.516(1), there shall be transferred from the contract(s) issued under the retirement plan to the Washington public employees' retirement system the amount which would have been paid, in employee and employer contributions, to the retirement system with interest (as computed by the retirement board) on the applicable income (as defined in RCW 41.40.515(5)) as provided by law and regulations promulgated pursuant thereto had the person been a member of the Washington public employees' retirement system during each month of contributing membership service at the University of Washington or the regional universities or The Evergreen State College during which such person participated in the retirement plan.

(2) The board shall compute separately the employee and employer amounts that would have been paid, during the time of contributing membership, and which will now be required to be transferred to the Washington public employees' retirement system. The employee share shall be transferred from the accumulation and/or cash value in the contract(s) attributable to employee contributions made in accordance with the retirement plan. The employer share shall be transferred from the accumulation and/or cash value in the contract(s) attributable to University of Washington, regional university, or state college contributions made in accordance with the retirement plan. [1977 1st ex.s. c 169 § 99; 1974 ex.s. c 195 § 7.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Severability—1974 ex.s. c 195: See note following RCW 41.40.030.

Reviser's note: The following caption is revised to conform to the 1977 amendment to RCW 41.40.515:

41.40.518 Optional entry of classified employees of University of Washington, regional universities, and The Evergreen State College—Deficiency payments.

41.40.519 Optional entry of classified employees of University of Washington, regional universities, and The Evergreen State College—Voluntary relinquishment of rights to employer contributions transferred. Any classified employee at the University of Washington, the regional universities, or The Evergreen State College electing to transfer membership to the Washington public employees' retirement system from the retirement

plan and seeking to transfer employee contributions made to the retirement plan shall be deemed to have voluntarily relinquished any right to any refund of the amounts transferred to the Washington public employees' retirement system as an employer contribution in accordance with RCW 41.40.517 as now or hereafter amended except as otherwise provided by chapter 41.40 RCW as now or hereafter amended. [1977 1st ex.s. c 169 § 100; 1974 ex.s. c 195 § 9.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Severability—1974 ex.s. c 195: See note following RCW 41.40.030.

41.40.520 Optional entry of classified employees of University of Washington, regional universities, and The Evergreen State College—Employee share rights upon termination from system prior to death. Any classified employee at the University of Washington, the regional universities, or The Evergreen State College electing to transfer to the Washington public employees' retirement system from the retirement plan and transferring his employee share in the retirement plan shall be entitled to a refund of his employee share of the total contributions made in his behalf as determined by the board upon termination of employment and withdrawal from the system prior to his death. [1977 1st ex.s. c 169 § 101; 1974 ex.s. c 195 § 10.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Severability—1974 ex.s. c 195: See note following RCW 41.40.030.

41.40.521 Optional entry of classified employees of University of Washington, regional universities, and The Evergreen State College—Recovery of credit for prior service to establish eligibility. Recognizing that it is or has been necessary for employees to serve a period of time to establish eligibility for contributing membership in the various retirement plans established by the University of Washington, the regional universities, and The Evergreen State College, any classified employee who elects to transfer to the public employees' retirement system pursuant to RCW 41.40.516(1), as now or hereafter amended may recover such service by paying, to the public employees' retirement system on or before January 1, 1975, the amount of employee and employer contributions with interest (as computed by the retirement board) which would have been made for such service had it been rendered while the employee was a member of the public employees' retirement system. [1977 1st ex.s. c 169 § 102; 1974 ex.s. c 195 § 11.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Severability—1974 ex.s. c 195: See note following RCW 41.40.030.

Reviser's note: The following caption is revised to conform to the 1977 amendment to RCW 41.40.515:

41.40.522 Optional entry of classified employees of University of Washington, regional universities, and The Evergreen State College—Rules and regulations.

41.40.600 Legislative finding. The legislature finds and determines that those members first employed on or before September 30, 1977, shall not suffer any diminishment or loss of benefits or rights, whether current or prospective, as the result of the enactment of *this 1977 amendatory act. [1977 1st ex.s. c 295 § 1.]

***Reviser's note:** "this 1977 amendatory act" (1977 1st ex.s. c 295) consists of RCW 41.40.005, 41.40.600 through 41.40.740, 41.40.900, 41.40.920, and the 1977 amendments to RCW 41.40.010, 41.40.165, 41.40.340, 41.40.350, and 41.40.370.

Legislative direction and placement—1977 1st ex.s. c 295: "Sections 1 through 15 of this 1977 amendatory act shall be added to chapter 41.40 RCW and shall be codified as consecutive sections of the Revised Code of Washington within such chapter." [1977 1st ex.s. c 295 § 23.]

Section headings—1977 1st ex.s. c 295: "Section headings used in this 1977 amendatory act shall not constitute any part of the law." [1977 1st ex.s. c 295 § 22.]

The foregoing annotations apply to RCW 41.40.600 through 41.40.740.

41.40.610 Application to certain persons. RCW 41.40.620 through 41.40.740 shall apply only to those persons who are initially employed by an employer on or after October 1, 1977. [1977 1st ex.s. c 295 § 2.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 295: See notes following RCW 41.40.600.

41.40.620 Computation of the retirement allowance. A member of the retirement system shall receive a retirement allowance equal to two percent of such member's average final compensation for each year of service. [1977 1st ex.s. c 295 § 3.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 295: See notes following RCW 41.40.600.

41.40.630 Retirement for service. (1) NORMAL RETIREMENT. Any member with at least five years of service who has attained at least age sixty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620.

(2) EARLY RETIREMENT. Any member who has completed at least twenty years of service and has attained age fifty-five shall be eligible to retire and to receive a retirement allowance computed according to the provisions of RCW 41.40.620, except that a member retiring pursuant to this subsection shall have the retirement allowance actuarially reduced to reflect the difference in the number of years between age at retirement and the attainment of age sixty-five. [1977 1st ex.s. c 295 § 4.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 295: See notes following RCW 41.40.600.

41.40.640 Post-retirement cost-of-living. Beginning July 1, 1979, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

(1) The original dollar amount of the retirement allowance;

(2) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";

(3) The index for the calendar year prior to the date of determination, to be known as "index B"; and

(4) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the original retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

(a) Produce a retirement allowance which is lower than the original retirement allowance;

(b) Exceed three percent in the initial annual adjustment; or

(c) Differ from the previous year's annual adjustment by more than three percent.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index—Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor. [1977 1st ex.s. c 295 § 5.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 295: See notes following RCW 41.40.600.

41.40.650 Employer and member contributions. The required contribution rates to the retirement system for both members and employers shall be established by the director from time to time as may be necessary upon the advice of the state actuary.

Contribution rates required to fund the costs of the retirement system shall always be equal for members and employers, except as herein provided. Any adjustments in contribution rates required from time to time for future costs shall likewise be shared equally by the members and employers: *Provided*, That the costs of amortizing the unfunded supplemental present value of the retirement system, in existence on September 30, 1977, shall be borne in full by the employers.

Any increase in the contribution rate required as the result of a failure of an employer to make any contribution required by this section shall be borne in full by the employer not making the contribution.

The director shall notify the retirement board of any pending adjustment in the required contribution rate and such increase shall be announced at a board meeting held at least thirty days prior to the effective date of the change.

Members contributions required by this section shall be deducted from the members compensation earnable each payroll period. The members contribution and the employers contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends.

Until such time as the director shall establish other rates, members and employers of such members shall each contribute 5.51% of compensation earnable: *Provided*, That employers shall initially contribute an additional one and one-half percent of compensation

earnable per member to amortize the unfunded supplemental present value of the retirement system in effect on September 30, 1977. [1977 1st ex.s. c 295 § 6.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 295: See notes following RCW 41.40.600.

41.40.660 Options for payment of retirement allowances. Upon retirement for service as prescribed in RCW 41.40.630, a member shall elect to have the retirement allowance paid pursuant to Option 1, 2, or 3 with Options 2 and 3 calculated so as to be actuarially equivalent to Option 1.

(1) **OPTION 1.** A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to such person or persons having an insurable interest in the retiree's life as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(2) **OPTION 2.** A member who elects this option shall receive a reduced retirement allowance, which upon the member's death shall be continued throughout the life of and paid to such person having an insurable interest in the retiree's life as the retiree shall have nominated by written designation duly executed and filed with the department at the time of the retiree's retirement.

(3) **OPTION 3.** A member who elects this option shall receive a reduced retirement allowance, and upon the member's death one-half of the retiree's reduced retirement allowance shall be continued throughout the life of and paid to such person having an insurable interest in the retiree's life as the retiree shall have nominated by written designation duly executed and filed with the department at the time of the retiree's retirement. [1977 1st ex.s. c 295 § 7.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 295: See notes following RCW 41.40.600.

41.40.670 Earned disability allowance. A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department upon recommendation of the retirement board shall be eligible to receive an allowance under the provisions of RCW 41.40.610 through 41.40.740. Such member shall receive a monthly disability allowance computed as provided for in RCW 41.40.620 and shall have such allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

Any member who receives an allowance under the provisions of this section shall be subject to such comprehensive medical examinations as required by the

department. If such medical examinations reveal that such a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, such member shall cease to be eligible for such allowance. [1977 1st ex.s. c 295 § 8.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 295: See notes following RCW 41.40.600.

41.40.680 Application for and effective date of retirement allowances. Any member or beneficiary eligible to receive a retirement allowance under the provisions of RCW 41.40.630, 41.40.670, or 41.40.700 shall be eligible to commence receiving a retirement allowance after having filed written application with the department.

(1) Retirement allowances paid to members under the provisions of RCW 41.40.630 shall accrue from the first day of the calendar month immediately following such member's separation from employment.

(2) Retirement allowances paid to vested members no longer in service, but qualifying for such an allowance pursuant to RCW 41.40.630, shall accrue from the first day of the calendar month immediately following such qualification.

(3) Disability allowances paid to disabled members under the provisions of RCW 41.40.670 shall accrue from the first day of the calendar month immediately following such member's separation from employment for disability.

(4) Retirement allowances paid as death benefits under the provisions of RCW 41.40.700 shall accrue from the first day of the calendar month immediately following the member's death. [1977 1st ex.s. c 295 § 9.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 295: See notes following RCW 41.40.600.

41.40.690 Suspension of retirement allowance upon reemployment by an employer. No retiree under the provisions of RCW 41.40.610 through 41.40.740 shall be eligible to receive such retiree's monthly retirement allowance if such retiree is performing service for any nonfederal public employer in this state.

Upon cessation of service for any nonfederal public employer in this state such retiree shall have benefits actuarially recomputed pursuant to the rules adopted by the department. [1977 1st ex.s. c 295 § 10.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 295: See notes following RCW 41.40.600.

41.40.700 Death benefits. (1) If a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death shall be paid to such person or persons having an insurable interest in such member's life as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system shall be

paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.40.630(1) actuarially adjusted to reflect Option 2 of RCW 41.40.660 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.40.630(2); if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b) The member's accumulated contributions. [1977 1st ex.s. c 295 § 11.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 295: See notes following RCW 41.40.600.

41.40.710 Service credit for authorized leave of absence. A member who is on a paid leave of absence authorized by a member's employer shall continue to receive service credit as provided for under the provisions of RCW 41.40.610 through 41.40.740.

A member shall be eligible to receive a maximum of two years service credit during a member's entire working career for those periods when a member is on an unpaid leave of absence authorized by an employer. Such credit may be obtained only if the member makes both the employer and member contributions plus interest as determined by the department for the period of the authorized leave of absence within five years of resumption of service or prior to retirement whichever comes sooner: *Provided*, That for the purpose of this subsection [section] the contribution shall not include the contribution for the unfunded supplemental present value as required by RCW 41.40.650. The contributions required shall be based on the average of the member's compensation earnable at both the time the authorized leave of absence was granted and the time the member resumed employment.

A member who is inducted into the armed forces of the United States shall be deemed to be on an unpaid, authorized leave of absence. [1977 1st ex.s. c 295 § 12.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 295: See notes following RCW 41.40.600.

41.40.720 Vested membership. A member who separates or has separated after having completed at least five years of service may remain a member during the

period of such member's absence from service for the exclusive purpose only of receiving a retirement allowance under the provisions of RCW 41.40.630 if such member maintains the member's accumulated contributions intact. [1977 1st ex.s. c 295 § 13.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 295: See notes following RCW 41.40.600.

41.40.730 Refund of contributions. A member who ceases to be an employee of an employer may request a refund of the member's accumulated contributions. The refund shall be made within ninety days following the receipt of the request and notification of termination by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt of request for such payment. A member who files a request for refund and subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund of accumulated contributions shall terminate all rights to benefits under RCW 41.40.610 through 41.40.740. [1977 1st ex.s. c 295 § 14.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 295: See notes following RCW 41.40.600.

41.40.740 Reentry. A member, who had left service and withdrawn the member's accumulated contributions, shall receive service credit for such prior service if the member restores all withdrawn accumulated contributions together with interest since the time of withdrawal as determined by the department.

The restoration of such funds must be completed within five years of the resumption of service or prior to retirement, whichever occurs first. [1977 1st ex.s. c 295 § 15.]

Legislative direction and placement—Section headings—1977 1st ex.s. c 295: See notes following RCW 41.40.600.

41.40.900 Severability—1977 1st ex.s. c 295. If any provision of *this 1977 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. [1977 1st ex.s. c 295 § 24.]

***Reviser's note:** "this 1977 amendatory act", see note following RCW 41.40.600.

41.40.920 Effective date—1977 1st ex.s. c 295. *This 1977 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 October 1, 1977. [1977 1st ex.s. c 295 § 25.]

***Reviser's note:** "This 1977 amendatory act", see note following RCW 41.40.600.

Chapter 41.50

DEPARTMENT OF RETIREMENT SYSTEMS

Sections

41.50.050 Powers, duties and functions of director.
41.50.080 Investment of funds of various systems.

41.50.085 Investments—Exercise of judgment and care required.

41.50.050 Powers, duties and functions of director.

The director shall:

(1) Have the authority to organize the department into not more than two divisions, each headed by an assistant director;

(2) Have free access to all files and records of various funds assigned to the department and inspect and audit the files and records as deemed necessary;

(3) With the assistance of the state finance committee, prepare written reports at least quarterly summarizing the investment activities of the department, which reports shall be sent to the governor, to the senate ways and means committee, the house appropriations committee, to all agencies having a direct financial interest in the investment of funds, and to other persons on request;

(4) Employ personnel to carry out the general administration of the department;

(5) Submit an annual written report of the activities of the department to the governor and the legislature, including recommendations for statutory changes the director believes to be desirable;

(6) Adopt such rules and regulations as are necessary to carry out the powers, duties, and functions of the department pursuant to the provisions of chapter 34.04 RCW. [1977 1st ex.s. c 251 § 1; 1975-'76 2nd ex.s. c 105 § 7.]

41.50.080 Investment of funds of various systems.

The director and the state finance committee, with the approval of the respective boards, shall provide for the investment of all funds of the Washington public employees' retirement system, the teachers' retirement system, the Washington law enforcement officers' and fire fighters' retirement system, the Washington state patrol retirement system, the Washington judicial retirement system, and the judges' retirement fund, pursuant to RCW 43.84.150, and may sell or exchange investments acquired in the exercise of that authority: *Provided*, That the method of granting approval shall be determined by each board, respectively, in its sole discretion. The state finance committee shall execute all such transactions. Nothing in this section or any other provision of law shall be construed to grant the director any investment powers other than as to funds of those retirement systems designated in this section. [1977 1st ex.s. c 251 § 2; 1975-'76 2nd ex.s. c 105 § 10.]

41.50.085 Investments—Exercise of judgment and care required. Any investments under RCW 43.84.150 shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived. [1977 1st ex.s. c 251 § 7.]

Chapter 41.60

STATE EMPLOYEES' SUGGESTION AWARDS

Sections

41.60.010 Definitions.

41.60.010 Definitions. As used in this chapter:

(1) "Board" means the employee suggestion awards board.

(2) "Employee suggestion program" means the program developed by the board under RCW 41.60.020(2).

(3) "Secretary" means the secretary of the employee suggestion program.

(4) "Institutions of higher learning" are the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community college districts. [1977 1st ex.s. c 169 § 103; 1969 ex.s. c 152 § 3; 1965 ex.s. c 142 § 1.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Title 42

PUBLIC OFFICERS AND AGENCIES

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Chapter 42.17

DISCLOSURE—CAMPAIGN FINANCES—LOBBYING—RECORDS

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42.17.020 Definitions. (1) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

(2) "Ballot proposition" means any "measure" as defined by RCW 29.01.110, or any initiative, recall, or referendum proposition proposed to be submitted to the voters of the state or any municipal corporation, political subdivision or other voting constituency from and after the time when such proposition has been initially filed with the appropriate election officer of that constituency prior to its circulation for signatures.

(3) "Campaign depository" means a bank designated by a candidate or political committee pursuant to RCW 42.17.050.

(4) "Campaign treasurer" and "deputy campaign treasurer" mean the individuals appointed by a candidate or political committee, pursuant to RCW 42.17.050, to perform the duties specified in that section.

(5) "Candidate" means any individual who seeks election to public office. An individual shall be deemed to seek election when he first:

- (a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his candidacy for office; or
- (b) Announces publicly or files for office.

(6) "Commercial advertiser" means any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise.

(7) "Commission" means the agency established under RCW 42.17.350.

(8) "Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind: *Provided*, That for the purpose of compliance with RCW 42.17.240, as now or hereafter amended, the term "compensation" shall not include per diem allowances or other payments made by a governmental entity to reimburse a public official for expenses incurred while such official is engaged in the official business of such governmental entity.

(9) "Continuing political committee" means a political committee which is an organization of continuing existence not established in anticipation of any particular election.

(10) "Contribution" includes a loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or transfer of anything of value, including personal and professional services for less than full consideration, but does not include interest on moneys deposited in a political committee's account, ordinary home hospitality and the rendering of "part time" personal services of the sort commonly performed by volunteer campaign workers or incidental expenses personally incurred by volunteer campaign workers not in excess of twenty-five dollars personally paid for by such worker. "Part time" services, for the purposes of this chapter, means services in addition to regular full time employment, or, in the case of an unemployed person, services not in excess of twenty hours per week, excluding weekends. For the purposes of this chapter, contributions other than money or its equivalents shall be deemed to have a money value equivalent to the fair market value of the contribution. Sums paid for tickets to fund-raising events such as dinners and parties are contributions; however, the amount of any such contribution may be reduced for the purpose of complying with the reporting requirements of this chapter, by the actual cost of consumables furnished in connection with the purchase of such tickets, and only the excess over actual cost of such consumables shall be deemed a contribution.

(11) "Elected official" means any person elected at a general or special election to any public office, and any person appointed to fill a vacancy in any such office.

(12) "Election" includes any primary, general, or special election for public office and any election in which a ballot proposition is submitted to the voters: *Provided*, That an election in which the qualifications for voting include other than those requirements set forth in Article VI, section 1 (Amendment 63) of the Constitution of the state of Washington shall not be considered an election for purposes of this chapter.

(13) "Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a ballot proposition.

(14) "Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. The term "expenditure" also includes a promise to pay, a payment or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For the purposes of this chapter, agreements to make expenditures, contracts, and promises to pay may be reported as estimated obligations until actual payment is made. The term "expenditure" shall not include the partial or complete repayment by a candidate or political committee of the principal of a loan, the receipt of which loan has been properly reported, or payment of service charges against a political committee's campaign account.

(15) "Final report" means the report described as a final report in RCW 42.17.080(2).

(16) "Immediate family" includes the spouse, dependent children, and other dependent relatives, if living in the household.

(17) "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter which may be the subject of action by either house, or any committee of the legislature and all bills and resolutions which having passed both houses, are pending approval by the governor.

(18) "Lobby" and "lobbying" each mean attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state administrative procedure acts, chapter 34.04 RCW and chapter 28B.19 RCW.

(19) "Lobbyist" includes any person who shall lobby either in his own or another's behalf.

(20) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed and all persons by whom he is compensated for acting as a lobbyist.

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

(22) "Person in interest" means the person who is the subject of a record or any representative designated by said person, except that if such person be under a legal disability, the term "person in interest" shall mean and include the parent or duly appointed legal representative.

(23) "Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support in any election campaign.

(24) "Political committee" means any person (except a candidate or an individual dealing with his own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

(25) "Public office" means any federal, state, county, city, town, school district, port district, special district, or other state political subdivision elective office.

(26) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

(27) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps,

magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

As used in this chapter, the singular shall take the plural and any gender, the other, as the context requires. [1977 1st ex.s. c 313 § 1; 1975 1st ex.s. c 294 § 2; 1973 c 1 § 2 (Initiative Measure No. 276 § 2).]

Effective date—1977 1st ex.s. c 313: "This 1977 amendatory act shall take effect on January 1, 1978." [1977 1st ex.s. c 313 § 9.]

Severability—1977 1st ex.s. c 313: "If any provision of this 1977 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." [1977 1st ex.s. c 313 § 8.]

The foregoing annotations apply to the amendment of RCW 42.17.020, 42.17.030, 42.17.060, 42.17.160, 42.17.170, and 42.17.190 and to the repeal of RCW 42.17.195.

CAMPAIGN FINANCING

42.17.030 Applicability. The provisions of this chapter relating to the financing of election campaigns shall apply in all election campaigns other than (a) for precinct committeeman; (b) for a federal elective office; and (c) for an office the constituency of which does not encompass a whole county and which contains less than five thousand registered voters as of the date of the most recent general election in such district. [1977 1st ex.s. c 313 § 2; 1973 c 1 § 3 (Initiative Measure No. 276 § 3).]

Effective date—**Severability**—1977 1st ex.s. c 313: See notes following RCW 42.17.020.

42.17.040 Obligation of political committees to file statement of organization. (1) Every political committee, within ten days after its organization or, within ten days after the date when it first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier, shall file a statement of organization with the commission and with the county auditor of the county in which the candidate resides (or in the case of a political committee supporting or opposing a ballot proposition, the county in which the campaign treasurer resides). Each political committee in existence on the effective date of this act shall file a statement of organization with the commission within ninety days after such effective date.

(2) The statement of organization shall include but not be limited to:

- (a) The name and address of the committee;
- (b) The names and addresses of all related or affiliated committees or other persons, and the nature of the relationship or affiliation;
- (c) The names, addresses, and titles of its officers; or if it has no officers, the names, addresses, and titles of its responsible leaders;
- (d) The name and address of its campaign treasurer and campaign depository;
- (e) A statement whether the committee is a continuing one;
- (f) The name, office sought, and party affiliation of each candidate whom the committee is supporting or

opposing, and, if the committee is supporting the entire ticket of any party, the name of the party;

(g) The ballot proposition concerned, if any, and whether the committee is in favor of or opposed to such proposition;

(h) What distribution of surplus funds will be made, in accordance with RCW 42.17.095, in the event of dissolution;

(i) The hours during which the committee will make available for public inspection its books of account and all reports filed in accordance with RCW 42.17.065 and 42.17.080, as now or hereafter amended; and

(j) Such other information as the commission may by regulation prescribe, in keeping with the policies and purposes of this chapter.

(3) Any material change in information previously submitted in a statement of organization shall be reported to the commission and to the appropriate county auditor within the ten days following the change. [1977 1st ex.s. c 336 § 1; 1975 1st ex.s. c 294 § 3; 1973 c 1 § 4 (Initiative Measure No. 276 § 4).]

Severability—1977 1st ex.s. c 336: "If any provision of this 1977 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." [1977 1st ex.s. c 336 § 8.]

The foregoing annotation applies to the enactment of RCW 42.17.095, 42.17.125, 42.17.242, and 42.17.243 and to the amendment of RCW 42.17.040, 42.17.090, and 42.17.370.

Effective date—1973 c 1: See RCW 42.17.900.

42.17.060 Deposit of contributions—Statement of campaign treasurer—Investment of campaign funds, qualifications—Unidentified contributions. (1) All monetary contributions received by a candidate or political committee shall be deposited by the campaign treasurer or deputy treasurer in a campaign depository in an account designated, "Campaign Fund of -----" (name of candidate or political committee).

(2) At the time each deposit is made, the campaign treasurer or deputy campaign treasurer shall prepare and file with the commission a statement containing the name of each person contributing the funds so deposited and the amount contributed by each person: *Provided*, That contributions not exceeding ten dollars from any one person may be deposited without identifying the contributor. A duplicate copy of the statement shall be retained by the campaign treasurer for his records. In the event of deposits made by a deputy campaign treasurer, the duplicate copy shall be forwarded to the campaign treasurer to be retained by him for his records. Each statement shall be certified as correct by the campaign treasurer or deputy campaign treasurer making the deposit.

(3) Political committees which support or oppose more than one candidate or ballot proposition, or exist for more than one purpose, may maintain multiple separate bank accounts within the same designated depository for such purpose: *Provided*, That each such account shall bear the same name followed by an appropriate designation which accurately identifies its separate purpose: *And provided further*, That transfers of funds

which must be reported under RCW 42.17.090(1)(d), as now or hereafter amended, may not be made from more than one such account.

(4) Nothing in this section shall prohibit a candidate or political committee from investing funds on hand in a campaign depository in bonds, certificates, or savings accounts or other similar savings instruments in financial institutions other than the campaign depository: *Provided*, That the commission is notified in writing of the initiation and the termination of the investment: *Provided further*, That the principal of such investment when terminated together with all interest, dividends, and income derived from the investment are deposited in the campaign depository in the account from which the investment was made and properly reported to the commission prior to any further disposition or expenditure thereof.

(5) Accumulated unidentified contributions, other than those made by persons whose names must be maintained on a separate and private list by a political committee's campaign treasurer pursuant to RCW 42.17.090(1)(b), which total in excess of one percent of the total accumulated contributions received in the current calendar year or three hundred dollars (whichever is more), shall not be deposited, used, or expended, but shall be returned to the donor, if his identity can be ascertained. If the donor cannot be ascertained, the contribution shall escheat to the state, and shall be paid to the state treasurer for deposit in the state general fund. [1977 1st ex.s. c 313 § 3; 1975 1st ex.s. c 294 § 4; 1973 c 1 § 6 (Initiative Measure No. 276 § 6).]

Effective date—Severability—1977 1st ex.s. c 313: See notes following RCW 42.17.020.

42.17.090 Contents of report. (1) Each report required under RCW 42.17.080 shall disclose for the period beginning at the end of the period for the last report or, in the case of an initial report, at the time of the first contribution or expenditure, and ending not more than three days prior to the date the report is due:

(a) The funds on hand at the beginning of the period;

(b) The name and address of each person who has made one or more contributions during the period, together with the money value and date of such contributions and the aggregate value of all contributions received from each such person during the campaign or in the case of a continuing political committee, the current calendar year: *Provided*, That the income which results from the conducting of a fund-raising activity which has previously been reported in accordance with RCW 42.17.067 may be reported as one lump sum, with the exception of that portion of such income which was received from persons whose names and addresses are required to be included in the report required by RCW 42.17.067: *Provided further*, That contributions not exceeding ten dollars in the aggregate from any one person during the election campaign may be reported as one lump sum so long as the campaign treasurer maintains a separate and private list of the names, addresses, and amounts of each such contributor;

(c) Each loan, promissory note, or security instrument to be used by or for the benefit of the candidate or

political committee made by any person, together with the names and addresses of the lender and each person liable directly, indirectly or contingently and the date and amount of each such loan, promissory note, or security instrument;

(d) The name and address of each political committee from which the reporting committee or candidate received, or to which that committee or candidate made, any transfer of funds, together with the amounts, dates, and purpose of all such transfers;

(e) All other contributions not otherwise listed or exempted;

(f) The name and address of each person to whom an expenditure was made in the aggregate amount of twenty-five dollars or more, and the amount, date, and purpose of each such expenditure;

(g) The total sum of expenditures;

(h) The surplus or deficit of contributions over expenditures;

(i) The disposition made in accordance with RCW 42.17.095 of any surplus funds;

(j) Such other information as shall be required by the commission by regulation in conformance with the policies and purposes of this chapter; and

(k) Funds received from a political committee not domiciled in Washington state and not otherwise required to report under this chapter (a "nonreporting committee"). Such funds shall be forfeited to the state of Washington unless the nonreporting committee or the recipient of such funds has filed or within three days following such receipt shall file with the commission a statement disclosing: (i) its name and address; (ii) the purposes of the nonreporting committee; (iii) the names, addresses, and titles of its officers or if it has no officers, the names, addresses, and titles of its responsible leaders; (iv) a statement whether the nonreporting committee is a continuing one; (v) the name, office sought, and party affiliation of each candidate in the state of Washington whom the nonreporting committee is supporting, and, if such committee is supporting the entire ticket of any party, the name of the party; (vi) the ballot proposition supported or opposed in the state of Washington, if any, and whether such committee is in favor of or opposed to such proposition; (vii) the name and address of each person residing in the state of Washington or corporation which has a place of business in the state of Washington who has made one or more contributions to the nonreporting committee during the preceding twelve-month period, together with the money value and date of such contributions; (viii) the name and address of each person in the state of Washington to whom an expenditure was made by the nonreporting committee on behalf of a candidate or political committee in the aggregate amount of twenty-five dollars or more, the amount, date, and purpose of such expenditure, and the total sum of such expenditures; (ix) such other information as the commission may by regulation prescribe, in keeping with the policies and purposes of this chapter.

(2) The campaign treasurer and the candidate shall certify the correctness of each report. [1977 1st ex.s. c 336 § 2; 1975-'76 2nd ex.s. c 112 § 3; 1975 1st ex.s. c 294 § 7; 1973 c 1 § 9 (Initiative Measure No. 276 § 9).]

Severability—1977 1st ex.s. c 336: See note following RCW 42.17.040.

42.17.095 Disposal of surplus funds. The surplus funds of a candidate, or of a political committee supporting or opposing a candidate, may only be disposed of in any one or more of the following ways:

(1) Return the surplus to a contributor in an amount not to exceed that contributor's original contribution;

(2) Transfer the surplus to the candidate's personal account as reimbursement for lost earnings incurred as a result of that candidate's election campaign. Such lost earnings shall be verifiable as unpaid salary or, when the candidate is not salaried, as an amount not to exceed income received by the candidate for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record thereof shall be maintained by the candidate or the candidate's political committee. The committee shall include a copy of such record when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090;

(3) Transfer the surplus to one or more candidates or to a political committee or party: *Provided*, That the aggregate value of all contributions transferred to all recipients under this subsection shall in no case exceed two thousand dollars in any one calendar year;

(4) Donate the surplus to a charitable organization registered [in] accordance with chapter 19.09 RCW;

(5) Transmit the surplus to the state treasurer for deposit in the general fund; or

(6) Hold the surplus in the campaign depository or depositories designated in accordance with RCW 42.17.050 for possible use in a future election campaign, for political activity in accordance with the dollar limitation of subsection (3) of this section where applicable, for community activity, or for nonreimbursed public office related expenses and report any such disposition in accordance with RCW 42.17.090: *Provided*, That if the candidate subsequently announces or publicly files for office, information as appropriate is reported to the commission in accordance with RCW 42.17.040 through 42.17.090. If a subsequent office is not sought the surplus held shall be disposed of in accordance with the requirements of this section. [1977 1st ex.s. c 336 § 3.]

Severability—1977 1st ex.s. c 336: See note following RCW 42.17.040.

42.17.125 Candidate's personal use of contributions—When permitted. Contributions received and reported in accordance with RCW 42.17.060 through 42.17.090 may only be transferred to a candidate's personal account or expended for a candidate's personal use under the following circumstances:

(1) Reimbursement for or loans to cover lost earnings incurred as a result of campaigning. Such lost earnings shall be verifiable as unpaid salary, or when the candidate is not salaried, as an amount not to exceed income received by the candidate for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record thereof shall

be maintained by the candidate or the candidate's political committee. The committee shall include a copy of such record when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090.

(2) Reimbursement for direct out-of-pocket election campaign and postelection campaign related expenses made by the candidate. To receive reimbursement from his political committee, the candidate shall provide the committee with written documentation as to the amount, date, and description of each expense and the committee shall include a copy of such information when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090.

(3) Repayment of loans made by the candidate to political committees, which repayment shall be reported pursuant to RCW 42.17.090. [1977 1st ex.s. c 336 § 6.]

Severability—1977 1st ex.s. c 336: See note following RCW 42.17.040.

LOBBYIST REPORTING

42.17.160 Exemption from registration. The following persons and activities shall be exempt from registration and reporting under RCW 42.17.150, 42.17.170, and 42.17.200:

(1) Persons who limit their lobbying activities to appearance before public sessions of committees of the legislature, or public hearings of state agencies;

(2) News or feature reporting activities and editorial comment by working members of the press, radio, or television and the publication or dissemination thereof by a newspaper, book publisher, regularly published periodical, radio station, or television station;

(3) Persons who lobby without compensation or other consideration for acting as a lobbyist: *Provided*, Such person makes no expenditure for or on behalf of any member of the legislature or elected official or public officer or employee of the state of Washington in connection with such lobbying. Any person exempt under this subsection (3) may at his option register and report under this chapter;

(4) Persons who restrict their lobbying activities to no more than four days or parts thereof during any three-month period and whose total expenditures during such three-month period for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington in connection with such lobbying do not exceed fifteen dollars: *Provided*, That the commission shall promulgate regulations to require disclosure by persons exempt under this subsection or their employers or entities which sponsor or coordinate the lobbying activities of such persons if it determines that such regulations are necessary to prevent frustration of the purposes of this chapter. Any person exempt under this subsection (4) may at his option register and report under this chapter;

(5) The governor;

(6) The lieutenant governor;

(7) Except as provided by RCW 42.17.190(1), members of the legislature;

(8) Except as provided by RCW 42.17.190(1), persons employed by the legislature for the purpose of aiding in the preparation or enactment of legislation or the performance of legislative duties;

(9) Elected officials, and officers and employees of any agency reporting under RCW 42.17.190(4) as now or hereafter amended. [1977 1st ex.s. c 313 § 4; 1975 1st ex.s. c 294 § 9; 1973 c 1 § 16 (Initiative Measure No. 276 § 16).]

Effective date—Severability—1977 1st ex.s. c 313: See notes following RCW 42.17.020.

42.17.170 Reporting by lobbyists. (1) Any lobbyist registered under RCW 42.17.150 and any person who lobbies shall file with the commission periodic reports of his activities signed by the lobbyist. The reports shall be made in the form and manner prescribed by the commission. They shall be due monthly and shall be filed within fifteen days after the last day of the calendar month covered by the report.

(2) Each such monthly periodic report shall contain:

(a) The totals of all expenditures made or incurred by such lobbyist or on behalf of such lobbyist by the lobbyist's employer during the period covered by the report, which totals shall be segregated according to financial category, including food and refreshments; living accommodations; advertising; travel; telephone; contributions; office expenses, including rent and the salaries and wages paid for staff and secretarial assistance, or the proportionate amount thereof, paid or incurred for lobbying activities; and other expenses or services: *Provided however*, That unreimbursed personal living and travel expenses of a lobbyist not incurred directly or indirectly for any lobbying purpose need not be reported. Each individual expenditure of more than twenty-five dollars for entertainment shall be identified by date, place, amount, and the names of all persons in the group partaking in or of such entertainment including any portion thereof attributable to the lobbyist's participation therein but without allocating any portion of such expenditure to individual participants.

(b) In the case of a lobbyist employed by more than one employer, the proportionate amount of such expenditures in each category incurred on behalf of each of his employers.

(c) An itemized listing of each such expenditure in the nature of a contribution of money or of tangible or intangible personal property to any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition, or for or on behalf of any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition. All contributions made to, or for the benefit of, any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition shall be identified by date, amount, and the name of the candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition receiving, or to be benefited by each such contribution.

(d) The subject matter of proposed legislation or rule-making; the proposed rules, standards, rates, or other legislative enactments under chapter 34.04 RCW and chapter 28B.19 RCW (the state administrative procedure acts) and the state agency considering the same; and the number of each senate or house bill, resolution, or other legislative activity which the lobbyist has been engaged in supporting or opposing during the reporting period: *Provided*, That in the case of appropriations bills the lobbyist shall enumerate the specific section or sections which he supported or opposed. [1977 1st ex.s. c 313 § 5; 1975 1st ex.s. c 294 § 10; 1973 c 1 § 17 (Initiative Measure No. 276 § 17).]

Effective date—Severability—1977 1st ex.s. c 313: See notes following RCW 42.17.020.

42.17.190 Legislative activities of state agencies and other units of government. (1) Every legislator and every committee of the legislature shall file with the commission quarterly reports listing the names, addresses, and salaries of all persons employed by the person or committee making the filing for the purpose of aiding in the preparation or enactment of legislation or the performance of legislative duties of such legislator or committee during the preceding quarter. The reports shall be made in the form and the manner prescribed by the commission and shall be filed between the first and tenth days of each calendar quarter: *Provided*, That the information required by this subsection may be supplied, insofar as it is available, by the chief clerk of the house of representatives or by the secretary of the senate on a form prepared by the commission.

(2) Unless authorized by subsection (3) of this section or otherwise expressly authorized by law, no public funds shall be used directly or indirectly for lobbying: *Provided*, This shall not prevent officers or employees of an agency from communicating with a member of the legislature on the request of that member; or communicating to the legislature, through the proper official channels, requests for legislative action or appropriations which are deemed necessary for the efficient conduct of the public business or actually made in the proper performance of their official duties: *Provided further*, That this subsection shall not apply to the legislative branch.

(3) Any agency, not otherwise expressly authorized by law, may expend public funds for lobbying, but such lobbying activity shall be limited to (a) providing information or communicating on matters pertaining to official agency business to any elected official or officer or employee of any agency or (b) advocating the official position or interests of the agency to any elected official or officer or employee of any agency: *Provided*, That public funds shall not be expended as a direct or indirect gift or campaign contribution to any elected official or officer or employee of any agency. For the purposes of this subsection, the term "gift" shall mean a voluntary transfer of any thing of value without consideration of equal or greater value, but shall not include informational material transferred for the sole purpose of informing the recipient about matters pertaining to official agency business: *Provided further*, That this section

shall not permit the printing of a state publication which has been otherwise prohibited by law.

(4) Each state agency which expends state funds for lobbying pursuant to an express authorization by law and each state agency, county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district which expends public funds for lobbying pursuant to the authorization contained in subsection (3) of this section or whose officers or employees communicate on legislation directly affecting the agency to members of the legislature on request of any member or communicate to the legislature requests for legislation shall file with the commission quarterly statements providing the following information for the quarter just completed:

(a) The name of the agency filing the statement;

(b) The name, title, and job description and salary of each elected official, officer, or employee engaged in such activities, a general description of the nature of the activities, and the proportionate amount of time spent on the activities;

(c) An itemized listing of any expenditures incurred by the agency for such activities.

The statements shall be in the form and the manner prescribed by the commission and shall be filed within thirty days after the end of the quarter covered by the report.

(5) The provisions of this section shall not relieve any elected official or officer or employee of an agency from complying with other provisions of this chapter, if such elected official, officer, or employee is not otherwise exempted. [1977 1st ex.s. c 313 § 6; 1975 1st ex.s. c 294 § 12; 1973 c 1 § 19 (Initiative Measure No. 276 § 19).]

Effective date—Severability—1977 1st ex.s. c 313: See notes following RCW 42.17.020.

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

REPORTING OF ELECTED OFFICIALS FINANCIAL AFFAIRS

42.17.240 Elected and appointed officials reports of financial affairs (as amended by 1975-'76 2nd ex.s. c 104). (Effective only if ratified by approval of the electorate of Referendum Bill No. 36 at the November 2, 1976, state general election.)

Referendum Bill No. 36 was approved by the electorate at the November 2, 1976, state general election.

42.17.242 Concealing identity of source of payment prohibited—Exception. No payment shall be made to any person required to report under RCW 42.17.240 and no payment shall be accepted by any such person, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the payment or in any other manner so as to effect concealment except that the commission may issue categorical and specific exemptions to the reporting of the actual source when there is an undisclosed principal for recognized legitimate business purposes. [1977 1st ex.s. c 336 § 4.]

Severability—1977 1st ex.s. c 336: See note following RCW 42.17.040.

42.17.243 Public office fund—What constitutes, restrictions on use—Reporting of—Disposal of remaining funds. (1) Elected and appointed officials required to report under RCW 42.17.240, shall report for themselves and for members of their immediate family to the commission any contributions received during the preceding calendar year for the officials' use in defraying nonreimbursed public office related expenses. Contributions reported under this section shall be referred to as a "public office fund" and shall not be transferred to a political committee nor used to promote or oppose a candidate or ballot proposition, other than as provided by subsection (3) (a) of this section. For the purposes of this section contributions shall include reimbursements from or payments by persons, other than the state of Washington or any agency, for travel expenses.

A report shall be filed during the month of January of any year following a year in which such contributions were received for or expenditures made from a public office fund. The report shall include:

(a) The name and address of each contributor;

(b) A description of each contribution, including the date on which it was received and its amount or, if its dollar value is unascertainable, an estimate of its fair market value; and

(c) A description of each expenditure made from a public office fund, including the name and address of the recipient, the amount, and the date of each such expenditure.

(2) No report under subsection (1) of this section shall be required if:

(a) The receipt of the contribution has been reported pursuant to RCW 42.17.065 (continuing political committee reports) or RCW 42.17.090 (political committee reports); or

(b) The contribution is in the form of meals, refreshments, or entertainment given in connection with official appearances or occasions where public business was discussed.

(3) Any funds which remain in a public office fund after all permissible public office related expenses have been paid may only be disposed of in one or more of the following ways:

(a) Returned to a contributor in an amount not to exceed that contributor's original contribution; or

(b) Donated to a charitable organization registered in accordance with chapter 19.09 RCW; or

(c) Transferred to the state treasurer for deposit in the general fund. [1977 1st ex.s. c 336 § 5.]

Severability—1977 1st ex.s. c 336: See note following RCW 42.17.040.

PUBLIC RECORDS

42.17.310 Certain personal and other records exempt. (1) The following shall be exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public

institutions or public health agencies, welfare recipients, prisoners, probationers, or parolees.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would violate the taxpayer's right to privacy or would result in unfair competitive disadvantage to such taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property: *Provided*, That if at the time the complaint is filed the complainant indicates a desire for disclosure or nondisclosure, such desire shall govern: *Provided, further*, That all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(2) The exemptions of this section shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption shall be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records, exempt under the provisions of this section, may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records, is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld. [1977 1st ex.s. c 314 § 13; 1975-'76 2nd ex.s. c 82 § 5; 1975 1st ex.s. c 294 § 17; 1973 c 1 § 31 (Initiative Measure No. 276 § 31).]

ADMINISTRATION AND ENFORCEMENT

42.17.370 Commission—Additional powers. The commission is empowered to:

(1) Adopt, promulgate, amend, and rescind suitable administrative rules and regulations to carry out the policies and purposes of this chapter, which rules and regulations shall be promulgated pursuant to the provisions of chapter 34.04 RCW;

(2) Prepare and publish such reports and technical studies as in its judgment will tend to promote the purposes of this chapter, including reports and statistics concerning campaign financing, lobbying, financial interests of elected officials, and enforcement of this chapter;

(3) Make from time to time, on its own motion, audits and field investigations;

(4) Make public the time and date of any formal hearing set to determine whether a violation has occurred, the question or questions to be considered, and the results thereof;

(5) Administer oaths and affirmations, issue subpoenas, and compel attendance, take evidence and require the production of any books, papers, correspondence, memorandums, or other records which the commission deems relevant or material for the purpose of any investigation authorized under this chapter, or any other proceeding under this chapter;

(6) Adopt and promulgate a code of fair campaign practices;

(7) Relieve, by published regulation of general applicability, candidates or political committees of obligations to comply with the provisions of this chapter relating to election campaigns, if they have not received contributions nor made expenditures in connection with any election campaign of more than one thousand dollars; and

(8) Enact regulations prescribing reasonable requirements for keeping accounts of and reporting on a quarterly basis costs incurred by state agencies, counties, cities, and other municipalities and political subdivisions in preparing, publishing, and distributing legislative information. The term "legislative information", for the purposes of this subsection, means books, pamphlets, reports, and other materials prepared, published, or distributed at substantial cost, a substantial purpose of which is to influence the passage or defeat of any legislation. The state auditor in his regular examination of each agency under chapter 43.09 RCW shall review such regulations, accounts, and reports and make appropriate findings, comments, and recommendations in his examination reports concerning those agencies.

(9) The commission, after hearing, by order approved and ratified by a majority of the membership of the commission, may suspend or modify any of the reporting requirements hereunder in a particular case if it finds that literal application of this chapter works a manifestly unreasonable hardship and if it also finds that such suspension or modification will not frustrate the purposes of the chapter. The commission shall find that a manifestly unreasonable hardship exists if reporting the name of an entity required to be reported under RCW 42.17.240(1)(g)(ii) would be likely to adversely affect the competitive position of any entity in which the person filing the report or any member of his immediate family holds any office, directorship, general partnership interest, or an ownership interest of ten percent or more. Any suspension or modification shall be only to the extent necessary to substantially relieve the hardship. The commission shall act to suspend or modify any reporting requirements only if it determines that facts exist that are clear and convincing proof of the findings required hereunder. Any citizen shall have standing to bring an action in Thurston county superior court to contest the propriety of any order entered hereunder within one year from the date of the entry of such order. [1977 1st ex.s. c 336 § 7; 1975 1st ex.s. c 294 § 25; 1973 c 1 § 37 (Initiative Measure No. 276 § 37).]

Severability—1977 1st ex.s. c 336: See note following RCW 42.17.040.

Chapter 42.26

AGENCY VENDOR PAYMENT REVOLVING FUND—PETTY CASH ACCOUNTS

Sections	
42.26.040	Petty cash accounts—Authorized—Advancements.

42.26.040 Petty cash accounts—Authorized—Advancements. The state treasurer is authorized to advance moneys from treasury funds to state agencies for the purpose of establishing petty cash accounts. Any agency may petition the office of program planning and fiscal management for the establishment of a petty cash account. The maximum amount of such accounts shall be based on the special needs of the petitioning agency and shall be subject to approval by the office of program planning and fiscal management. The amount so advanced shall be reflected in the state treasurer's accounts as an amount due from the agency to the fund or account from which the advance was made. [1977 c 40 § 1; 1969 ex.s. c 60 § 4.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Chapter 42.30

OPEN PUBLIC MEETINGS ACT

Sections	
42.30.075	Schedule of regular meetings—Publication in state register—Notice of change—"Regular" meetings defined.

42.30.075 Schedule of regular meetings—Publication in state register—Notice of change—"Regular" meetings defined. State agencies which hold regular meetings shall file with the code reviser a schedule of the time and place of such meetings on or before January 1st of each year for publication in the Washington state register. Notice of any change from such meeting schedule shall be published in the state register for distribution at least twenty days prior to the rescheduled meeting date.

For the purposes of this section "regular" meetings shall mean recurring meetings held in accordance with a periodic schedule declared by statute or rule. [1977 1st ex.s. c 240 § 12.]

Effective date—1977 1st ex.s. c 240: See note following RCW 34.08.010.

Severability—1977 1st ex.s. c 240: See RCW 34.08.910.

Public meeting notices in state register: RCW 34.08.020.

- 43.41 Director of financial management.
- 43.43 Washington state patrol.
- 43.49 Columbia Basin commission.
- 43.51 Parks and recreation commission.
- 43.51A Office of archaeology and historic preservation.
- 43.52 Operating agencies.
- 43.56 Uniform legislation commission.
- 43.60A Department of veterans affairs.
- 43.61 Veterans' rehabilitation council.
- 43.62 Determination of populations—Student enrollments.
- 43.63A Planning and community affairs.
- 43.77 Printing and duplicating committee.
- 43.79 State funds.
- 43.83A Waste disposal facilities bond issue.
- 43.83B Water Supply Facilities.
- 43.83C Recreation improvements bond issue.
- 43.83D Social and health services facilities 1972 bond issue.
- 43.83H Social and health services facilities—Bond issues.
- 43.83I Department of fisheries—Bond issues.
- 43.84 Investments and interfund loans.
- 43.85 State depositories.
- 43.88 Budget and accounting.
- 43.88A Legislative fiscal notes.
- 43.92 Geological survey.
- 43.94 Oceanographic commission.
- 43.97 Columbia River Gorge commission.
- 43.101 Criminal justice training commission—Education and training standards boards.
- 43.111 Washington state women's commission.
- 43.117 State commission on Asian-American affairs.
- 43.125 American revolution bicentennial commission.
- 43.131 Washington Sunset Act of 1977.
- 43.132 Fiscal impact of proposed legislation on political subdivisions.

Title 43

STATE GOVERNMENT—EXECUTIVE

Chapters

- 43.01 State officers—General provisions.
- 43.03 Salaries and expenses.
- 43.06 Governor.
- 43.07 Secretary of state.
- 43.08 State treasurer.
- 43.09 State auditor.
- 43.10 Attorney general.
- 43.17 Administrative departments and agencies—General provisions.
- 43.19 Department of general administration.
- 43.20 Department of health—State board of health.
- 43.20A Department of social and health services.
- 43.21 Department of conservation.
- 43.21A Department of ecology.
- 43.21C State environmental policy.
- 43.21G Energy supply emergencies, alerts.
- 43.22 Department of labor and industries.
- 43.23 Department of agriculture.
- 43.30 Department of natural resources.
- 43.31 Department of commerce and economic development.
- 43.31A Economic assistance act of 1972.
- 43.33 Finance committee—Investment advisory committee.

Chapter 43.01

STATE OFFICERS—GENERAL PROVISIONS

Sections

- 43.01.030 Repealed.

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

Chapter 43.03

SALARIES AND EXPENSES

Sections

- 43.03.010 Salaries of elective state officers.
- 43.03.028 State committee on salaries—Members—Duties—Reports (as amended by 1977 c 75).
- 43.03.028 State committee on salaries—Members—Duties—Reports (as amended by 1977 1st ex.s. c 127).
- 43.03.040 Salaries of certain directors and chief executive officers.

- 43.03.050 Subsistence allowance for officials, employees, and members of boards, commissions, or committees.
 43.03.060 Mileage allowance.
 43.03.063 "Legislative approval"——Defined for purposes of RCW 43.03.050, 43.03.060, 43.03.063, and 43.03.065.
 43.03.065 Subsistence and lodging expenses——Direct payment to suppliers authorized.
 43.03.140 Repealed.

43.03.010 Salaries of elective state officers. The annual salaries of the following named state elected officials shall be: Governor, fifty-five thousand dollars; lieutenant governor, twenty-five thousand dollars plus a sum equal to 1/260th of the difference between the annual salary of the lieutenant governor and the annual salary of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor; secretary of state, twenty-seven thousand dollars; state treasurer, thirty-two thousand five hundred dollars; state auditor, thirty-two thousand five hundred dollars; attorney general, forty-one thousand two hundred dollars; superintendent of public instruction, thirty-seven thousand four hundred dollars; commissioner of public lands, thirty-seven thousand four hundred dollars; state insurance commissioner, thirty-two thousand five hundred dollars; members of the legislature shall receive for their service nine thousand eight hundred dollars per annum, effective January 8, 1979; and in addition, ten cents per mile for travel to and from legislative sessions. [1977 1st ex.s. c 318 § 1; 1975-'76 2nd ex.s. c 113 § 1; 1975 1st ex.s. c 263 § 1; 1974 ex.s. c 149 § 2 (Initiative Measure No. 282); 1967 ex.s. c 100 § 1; 1965 ex.s. c 127 § 4; 1965 c 8 § 43.03.010. Prior: 1965 c 1 § 2; 1961 c 5 § 1; 1959 c 316 § 1; 1949 c 48 § 1; Rem. Supp. 1949 § 10965-1; prior: 1947 c 79 § .02.04; 1945 c 116 § 1; 1939 c 226 § 1; 1925 ex.s. c 163 § 1; 1925 ex.s. c 90 § 1; 1919 c 124 §§ 1, 2; 1907 c 94 § 1.]

Effective date——1977 1st ex.s. c 318: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1977." [1977 1st ex.s. c 318 § 7.]

Severability——1975 1st ex.s. c 263: "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 263 § 7.]

Effective date——1975 1st ex.s. c 263: "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 263 § 8.]

Severability——1974 ex.s. c 149 (Initiative Measure No. 282): "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [Initiative Measure No. 282 § 7.]

43.03.028 State committee on salaries——Members——Duties——Reports (as amended by 1977 c 75). There is hereby created a committee to be known as the state committee on salaries, to consist of seven members as follows: The president of the University of Puget Sound or his nominee; the president of Washington State University or his nominee; the chairman of the State Personnel Board; the president of the Association of Washington Business; the president of the Pacific Northwest Personnel Managers' Association; the president of the Washington State Bar Association, and the president of the

Washington State Labor Council or his nominee. If any of the titles or positions mentioned in this subsection are changed or abolished, any person occupying an equivalent or like position shall be qualified for appointment by the governor to membership upon the committee.

(1) The committee herein created shall study the duties and salaries of the directors of the several departments and the members of the several boards and commissions of state government who are subject to appointment by the governor, the director of game, the director of highways, the director of aeronautics, the director of parks and recreation and the statutory assistant directors of all departments the executive head of which is an individual appointed by the governor, and to recommend to the governor the salaries to be fixed for each respective position. Such recommendations shall be submitted to the governor in writing at least once in each fiscal biennium on such date as the governor may designate, but not later than seventy-five days prior to the convening of the legislature.

(2) The committee shall also make a study of the duties and salaries of all state elective officials, including members of the supreme, appellate, superior, and district courts and of the members of the legislature, and also a study of the duties and salaries of county elective officials, and report to the governor not later than sixty days prior to the convening of each regular session of the legislature and recommend the salaries to be established for each position. Copies of the committee report to the governor shall be provided to the appropriate standing committees of the house and senate upon request. [1977 c 75 § 36; 1970 ex.s. c 43 § 2; 1967 c 19 § 1; 1965 c 8 § 43.03.028. Prior: 1961 c 307 § 1; 1955 c 340 § 1.]

Reviser's note: Powers, duties, and functions of director of highways and director of aeronautics transferred to department of transportation; see RCW 47.01.031. Terms "director of highways" and "director of aeronautics" mean secretary of transportation; see RCW 47.04.015 and 47.68.015, respectively.

43.03.028 State committee on salaries——Members——Duties——Reports (as amended by 1977 1st ex.s. c 127). (1) There is hereby created a state committee on salaries to consist of seven members, or their designees, as follows: The president of the University of Puget Sound; the president of Washington State University; the chairperson of the State Personnel Board; the president of the Association of Washington Business; the president of the Pacific Northwest Personnel Managers' Association; the president of the Washington State Bar Association; and the president of the Washington State Labor Council. If any of the titles or positions mentioned in this subsection are changed or abolished, any person occupying an equivalent or like position shall be qualified for appointment by the governor to membership upon the committee

(2) The committee shall study the duties and salaries of the directors of the several departments and the members of the several boards and commissions of state government, who are subject to appointment by the governor or whose salaries are fixed by the governor, and of the chief executive officers of the following agencies of state government:

The arts commission; the human rights commission; the board of accountancy; the board of pharmacy; the capitol historical association and museum; the eastern Washington historical society; the Washington state historical society; the interagency committee for outdoor recreation; the criminal justice training commission; the oceanographic commission; the department of personnel; the state finance committee; the state library; the traffic safety commission; the horse racing commission; the commission for vocational education; the advisory council on vocational education; the public disclosure commission; the hospital commission; the state conservation commission; the commission on Mexican-American affairs; the commission on Asian-American affairs; the state board for volunteer firemen; the urban arterial board; the data processing authority; the public employees relations commission; the forest practices appeals board; and the energy facilities site evaluation council.

The committee shall report to the governor or the chairperson of the appropriate salary fixing authority at least once in each fiscal biennium on such date as the governor may designate, but not later than seventy-five days prior to the convening of the legislature, its recommendations for the salaries to be fixed for each position.

(3) The committee shall also make a study of the duties and salaries of all state elective officials, including members of the supreme, appellate, superior, and district courts and members of the legislature and report to the governor and the president of the senate and the speaker of the house not later than sixty days prior to the convening of each

regular session of the legislature its recommendation for the salaries to be established for each position.

(4) Committee members shall be reimbursed by the department of personnel for travel expenses under RCW 43.03.050 and 43.03.060. [1977 1st ex.s. c 127 § 1; 1970 ex.s. c 43 § 2; 1967 c 19 § 1; 1965 c 8 § 43.03.028. Prior: 1961 c 307 § 1; 1955 c 340 § 1.]

Reviser's note: RCW 43.03.028 was amended twice during the 1977 regular and first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Severability—1970 ex.s. c 43: See note following RCW 43.03.027.

Horse racing commission members, salaries: RCW 67.16.012.

43.03.040 Salaries of certain directors and chief executive officers. The directors of the several departments and members of the several boards and commissions, whose salaries are fixed by the governor and the chief executive officers of the agencies named in RCW 43.03.028(2) as now or hereafter amended shall each severally receive such salaries, payable in monthly installments, as shall be fixed by the governor or the appropriate salary fixing authority, in an amount not to exceed the recommendations of the committee on salaries. [1977 1st ex.s. c 127 § 2; 1970 ex.s. c 43 § 3; 1965 c 8 § 43.03.040. Prior: 1961 c 307 § 2; 1955 c 340 § 2; 1949 c 111 § 1; 1937 c 224 § 1; Rem. Supp. 1949 § 10776-1.]

Severability—1970 ex.s. c 43: See note following RCW 43.03.027.

43.03.050 Subsistence allowance for officials, employees, and members of boards, commissions, or committees. (1) The director of the office of program planning and fiscal management shall prescribe reasonable allowances to cover reasonable and necessary subsistence and lodging expenses for elective and appointive officials and state employees while engaged on official business away from their designated posts of duty. The director of the office of program planning and fiscal management may prescribe and regulate the allowances provided in lieu of subsistence and lodging expenses and may prescribe the conditions under which reimbursement for subsistence and lodging may be allowed. The schedule of allowances adopted by the office of program planning and fiscal management may include special allowances for foreign travel and other travel involving higher than usual costs for subsistence and lodging.

(2) Those persons appointed to serve without compensation on any state board, commission, or committee, if entitled to payment of travel expenses, shall be paid pursuant to special per diem rates prescribed in accordance with subsection (1) of this section by the office of program planning and fiscal management.

(3) The initial schedule of allowances prescribed by the director under the terms of this section and any subsequent increases in any maximum allowance or special allowances for areas of higher than usual costs shall be subject to legislative approval. [1977 1st ex.s. c 312 § 1; 1975-'76 2nd ex.s. c 34 § 94; 1970 ex.s. c 34 § 1; 1965 ex.s. c 77 § 1; 1965 c 8 § 43.03.050. Prior: 1961 c 220 § 1; 1959 c 194 § 1; 1953 c 259 § 1; 1949 c 17 § 1; 1943 c 86 § 1; Rem. Supp. 1949 § 10981-1.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Effective date—Construction—1977 1st ex.s. c 312: "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 except that any new schedule of allowances under either RCW 43.03.050 and 43.03.060 as now or hereafter amended shall not be effective until July 1, 1977 or later." [1977 1st ex.s. c 312 § 5.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.03.060 Mileage allowance. (1) Whenever it becomes necessary for an elective or appointive official or employee of the state to travel away from his designated post of duty while engaged on official business, and it is found to be more advantageous and economical to the state that travel be by a privately-owned vehicle rather than a common carrier or a state-owned or operated vehicle, a mileage rate not to exceed the rate established by the director of the office of program planning and fiscal management shall be allowed. The maximum rate established by the director shall be based on the estimated cost of using a privately-owned vehicle on state business.

(2) The director of the office of program planning and fiscal management may prescribe and regulate the specific mileage rate or other allowance for the use of privately-owned vehicles or common carriers on official business and the conditions under which reimbursement of transportation costs may be allowed: *Provided*, That reimbursement or other payment for transportation expenses of any employee or appointive official of the state shall be based on the method deemed most advantageous and economical to the state.

(3) The initial maximum mileage rate established by the director of the office of program planning and fiscal management pursuant to this section and any subsequent changes thereto shall be subject to legislative approval. [1977 1st ex.s. c 312 § 2; 1975-'76 2nd ex.s. c 34 § 95; 1974 ex.s. c 157 § 1; 1967 ex.s. c 16 § 4; 1965 c 8 § 43.03.060. Prior: 1949 c 17 § 2; 1943 c 86 § 2; Rem. Supp. 1949 § 10981-2.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Effective date—Construction—1977 1st ex.s. c 312: See note following RCW 43.03.050.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.03.063 "Legislative approval"—Defined for purposes of RCW 43.03.050, 43.03.060, 43.03.063, and 43.03.065. "Legislative approval" for purposes of RCW 43.03.050 and 43.03.060 both as now or hereafter amended and RCW 43.03.063 and 43.03.065 shall consist of consultation with and a favorable vote by the senate ways and means committee and the house of representatives appropriations committee during times when the legislature is in session or consultation with and a favorable vote by the legislative budget committee during periods when the legislature is not in session or has been in recess for three or more days. [1977 1st ex.s. c 312 § 3.]

Effective date—Construction—1977 1st ex.s. c 312: See note following RCW 43.03.050.

43.03.065 Subsistence and lodging expenses—Direct payment to suppliers authorized. The allowances prescribed pursuant to RCW 43.03.050 as now or hereafter amended may be paid as reimbursements to individuals for subsistence and lodging expenses during official travel. Alternatively, amounts not exceeding those allowances may be paid directly to appropriate suppliers of subsistence and lodging, when more economical and advantageous to the state, under general rules and regulations adopted by the director of the office of program planning and fiscal management with the advice of the state auditor. Payments to suppliers for subsistence and lodging expenses of individuals in travel status shall not result in a cost to the state in excess of what would be payable by way of reimbursements to the individuals involved. [1977 1st ex.s. c 312 § 4.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Effective date—Construction—1977 1st ex.s. c 312: See note following RCW 43.03.050.

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

Chapter 43.06 GOVERNOR

Sections

43.06.010	General powers and duties.
43.06.140	Federal funds and programs—Reports to legislature.
43.06.200	Definitions.
43.06.210	Proclamation of state of emergency—Termination.

43.06.010 General powers and duties. In addition to those prescribed by the Constitution, the governor may exercise the powers and perform the duties prescribed in this and the following sections:

(1) The governor shall supervise the conduct of all executive and ministerial offices;

(2) The governor shall see that all offices are filled, and the duties thereof performed, or in default thereof, apply such remedy as the law allows; and if the remedy is imperfect, acquaint the legislature therewith at its next session;

(3) The governor shall make the appointments and supply the vacancies mentioned in this title;

(4) The governor is the sole official organ of communication between the government of this state and the government of any other state or territory, or of the United States;

(5) Whenever any suit or legal proceeding is pending against this state, or which may affect the title of this state to any property, or which may result in any claim against the state, the governor may direct the attorney general to appear on behalf of the state, and report the same to the governor, or to any grand jury designated by the governor, or to the legislature when next in session;

(6) The governor may require the attorney general or any prosecuting attorney to inquire into the affairs or management of any corporation existing under the laws of this state, or doing business in this state, and report the same to the governor, or to any grand jury designated by the governor, or to the legislature when next in session;

(7) The governor may require the attorney general to aid any prosecuting attorney in the discharge of his duties;

(8) The governor may offer rewards, not exceeding one thousand dollars in each case, payable out of the state treasury, for the apprehension of any person convicted of a felony who has escaped from the state prison or of any person who has committed or is charged with the commission of a felony;

(9) The governor shall perform such duties respecting fugitives from justice as are prescribed by law;

(10) The governor shall issue and transmit election proclamations as prescribed by law;

(11) The governor may require any officer or board to make, upon demand, special reports to the governor, in writing;

(12) The governor may, after finding that a public disorder, disaster, energy emergency, or riot exists within this state or any part thereof which affects life, health, property, or the public peace, proclaim a state of emergency in the area affected, and the powers granted the governor during a state of emergency shall be effective only within the area described in the proclamation;

(13) The governor shall, when appropriate, submit to the select joint committee created by RCW 43.131.120, lists of state agencies, as defined by RCW 43.131.030, which agencies might appropriately be scheduled for termination by a bill proposed by the select joint committee. [1977 1st ex.s. c 289 § 15; 1975-'76 2nd ex.s. c 108 § 25; 1969 ex.s. c 186 § 8; 1965 c 8 § 43.06.010. Prior: 1890 p 627 § 1; RRS § 10982.]

Severability—1977 1st ex.s. c 289: See note following RCW 43.131.010.

Severability—Effective date—1975-'76 2nd ex.s. c 108: See notes following RCW 43.21F.010.

43.06.140 Federal funds and programs—Reports to legislature. Not later than the first day of any regular legislative session, the governor shall submit to the legislature a report listing federal programs in which the state has begun participation since the first day of the previous regular legislative session. This report may be made a part of the budget document submitted to the legislature pursuant to chapter 43.88 RCW and may exclude any new federal program reported as provided in RCW 43.79.280 if clearly identified at that time as a new program. [1977 c 75 § 37; 1973 2nd ex.s. c 17 § 2; 1967 ex.s. c 41 § 3.]

43.06.200 Definitions. Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in RCW 43.06.010, and 43.06.200 through 43.06.270 each as now or hereafter amended shall have the following meaning:

"State of emergency" means an emergency proclaimed as such by the governor pursuant to RCW 43.06.010 as now or hereafter amended.

"Governor" means the governor of this state or, in case of his removal, death, resignation or inability to discharge the powers and duties of his office, then the person who may exercise the powers of governor pursuant to the Constitution and laws of this state relating to succession in office.

"Criminal offense" means any prohibited act for which any criminal penalty is imposed by law and includes any misdemeanor, gross misdemeanor, or felony. [1977 1st ex.s. c 328 § 11; 1975-'76 2nd ex.s. c 108 § 26; 1969 ex.s. c 186 § 1.]

Severability—1977 1st ex.s. c 328: See note following RCW 43.21G.010.

Severability—Effective date—1975-'76 2nd ex.s. c 108: See notes following RCW 43.21F.010.

Provisions cumulative—1969 ex.s. c 186: "The provisions of this act shall be cumulative to and shall not operate to repeal any other laws, or local ordinances, except those specifically mentioned in this act." [1969 ex.s. c 186 § 10.]

Severability—1969 ex.s. c 186: "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 186 § 11.]

Energy supply emergencies: Chapter 43.21G RCW.

43.06.210 Proclamation of state of emergency—

Termination. The proclamation of a state of emergency and other proclamations or orders issued by the governor pursuant to RCW 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter amended shall be in writing and shall be signed by the governor and shall then be filed with the secretary of state. The governor shall give as much public notice as practical through the news media of the issuance of proclamations or orders pursuant to RCW 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter amended. The state of emergency shall cease to exist upon the issuance of a proclamation of the governor declaring its termination: *Provided*, That the governor must terminate said state of emergency proclamation when order has been restored in the area affected. [1977 1st ex.s. c 328 § 12; 1975-'76 2nd ex.s. c 108 § 27; 1969 ex.s. c 186 § 2.]

Severability—1977 1st ex.s. c 328: See note following RCW 43.21G.010.

Severability—Effective date—1975-'76 2nd ex.s. c 108: See notes following RCW 43.21F.010.

Energy supply emergencies: Chapter 43.21G RCW.

Chapter 43.07

SECRETARY OF STATE

Sections

43.07.060 through 43.07.080 Repealed.
43.07.150 Uniform commercial code powers, duties and functions transferred to department of licensing.

43.07.060 through 43.07.080 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

[1977 RCW Supp—page 400]

43.07.150 Uniform commercial code powers, duties and functions transferred to department of licensing. All powers, duties, and functions vested by law in the secretary of state relating to the Uniform Commercial Code are transferred to the department of motor vehicles. [1977 1st ex.s. c 117 § 1.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Continuation of rules—1977 1st ex.s. c 117: "The lawfully adopted rules of the secretary of state relating to the Uniform Commercial Code in effect on June 30, 1977, shall continue to have full force and effect and be applicable until superseded by or repealed by rules lawfully adopted by the department of motor vehicles relating to the Uniform Commercial Code." [1977 1st ex.s. c 117 § 2.]

Transfer of property—1977 1st ex.s. c 117: "All equipment, reports, documents, surveys, books, records, files, papers, or other writings in the possession of the secretary of state relating to the Uniform Commercial Code shall be delivered on July 1, 1977, to the custody of the department of motor vehicles." [1977 1st ex.s. c 117 § 3.]

Continuation of services—1977 1st ex.s. c 117: "All state officials required to maintain contact with or provide services for the secretary of state in regards to any functions transferred by RCW 43.07.150 shall continue to perform such functions for the department of motor vehicles." [1977 1st ex.s. c 117 § 4.]

Transfer of appropriations, employees—1977 1st ex.s. c 117: "Any appropriations or portions thereof heretofore made to the secretary of state for the purpose of carrying out the powers, duties, and functions relating to the Uniform Commercial Code shall on July 1, 1977, be transferred and credited to the department of motor vehicles for the purpose of carrying out such powers, duties, and functions as are transferred to it by RCW 43.07.150.

All employees of the secretary of state, who exclusively or principally perform functions relating to the Uniform Commercial Code, and all funds relative to their functions, shall be transferred to the department of motor vehicles on July 1, 1977." [1977 1st ex.s. c 117 § 5.]

Severability—1977 1st ex.s. c 117: "If any provision of this 1977 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." [1977 1st ex.s. c 117 § 13.]

Effective date—1977 1st ex.s. c 117: "This 1977 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, 1977." [1977 1st ex.s. c 117 § 14.]

Chapter 43.08

STATE TREASURER

Sections

43.08.010 General duties.
43.08.060 Duplicate receipts.
43.08.150 Monthly financial report.

43.08.010 General duties. The state treasurer shall:

(1) Receive and keep all moneys of the state in the manner provided in RCW 43.88.160, as now or hereafter amended;

(2) Disburse the public moneys only upon warrants or checks drawn upon the treasurer in the manner provided by law;

(3) Account for moneys in the manner provided by law;

(4) Render accounts in the manner provided by law;

(5) Indorse on each warrant when required by law, the date of payment, the amount of the principal, and the interest due on that date;

(6) Report annually to the legislature a detailed statement of the condition of the treasury, and of its operations for the preceding fiscal year;

(7) Give information, in writing, to either house of the legislature, whenever required, upon any subject connected with the treasury, or touching any duty of his office;

(8) Account for and pay over all moneys on hand to his successor in office, and deliver all books, vouchers, and effects of office to him, who shall receipt therefor;

(9) Upon payment of any warrant, or check, take upon the back thereof the indorsement of the person to whom it is paid. [1977 c 75 § 38; 1965 c 8 § 43.08.010. Prior: 1890 p 642 § 1; RRS § 11019; prior: 1886 p 134 § 2; 1871 p 77 § 2; 1864 p 52 § 3; 1854 p 413 § 3.]

Budget and accounting system, powers and duties: RCW 43.88.160(2).

43.08.060 Duplicate receipts. All persons required by law to pay any moneys into the state treasury, or to transmit any public funds to the state treasurer on state accounts, shall, at the time of making such payments or transmissions specify the amount and date of such payment, and for what particular fund or account.

For all sums of money so paid the state treasurer shall forthwith give duplicate receipts in accordance with the rules and regulations promulgated by the office of program planning and fiscal management as authorized by RCW 43.88.160(1). [1977 c 16 § 1; 1965 c 8 § 43.08.060. Prior: 1890 p 643 § 4; RRS § 5504; prior: 1886 p 134 § 4; 1871 p 78 § 4; 1864 p 53 § 5; 1854 p 414 § 5.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

43.08.150 Monthly financial report. As soon as possible after the close of each calendar month, the state treasurer shall prepare a report as to the state of the general fund and every other fund under his control itemized as to:

(1) The amount in the fund at the close of business at the end of the preceding month;

(2) The amount of revenue deposited or transferred to the credit of each fund during the current month;

(3) The amount of withdrawals or transfers from each fund during the current month; and

(4) The amount on hand in each fund at the close of business at the end of the current month.

One copy of each report shall be provided promptly to those requesting them so long as the supply lasts. [1977 c 75 § 39; 1965 c 8 § 43.08.150. Prior: 1947 c 32 § 1; Rem. Supp. 1947 § 11019-1.]

Biennial reports, periods: RCW 43.01.035.

Investment of surplus funds, rules and allocations to be published in report: RCW 43.86A.050.

Reports, budget and accounting system: RCW 43.88.160(1).

Chapter 43.09 STATE AUDITOR

Sections

43.09.050	General duties of auditor (as amended by 1977 c 75).
43.09.050	General duties of auditor (as amended by 1977 1st ex.s. c 144).
43.09.160	Repealed.
43.09.230	Division of municipal corporations—Annual reports—Comparative statistics.

43.09.050 General duties of auditor (as amended by 1977 c 75).

The auditor shall:

(1) Audit, adjust, and settle all claims against the state, payable out of the treasury, except such as are expressly required by law to be audited and settled by other persons;

(2) Except as otherwise specifically provided by law, audit, settle, and adjust the accounts of all collectors of the revenue and other holders of public money required by law to pay the same into the treasury;

(3) In his discretion, inspect the books of any person charged with the receipt, safekeeping, and disbursement of public moneys;

(4) Direct prosecutions in the name of the state for all official delinquencies in relation to the assessment, collection, and payment of the revenue, against all persons who, by any means, become possessed of public money or property, and fail to pay over or deliver the same, and against all debtors of the state;

(5) Give information in writing to the legislature, whenever required, upon any subject relating to the financial affairs of the state, or touching any duties of his office;

(6) Require all persons who have received any moneys belonging to the state, and have not accounted therefor, to settle their accounts and make payment thereof;

(7) In his discretion, require any person presenting an account for settlement to be sworn before him, and to answer, orally or in writing, as to any facts relating to it;

(8) Authenticate with his official seal papers issued from his office;

(9) Make his official report annually on or before the 31st of December. [1977 c 75 § 40; 1971 ex.s. c 170 § 1; 1965 c 8 § 43.09.050. Prior: 1890 p 636 § 5; RRS § 11001; prior: Code 1881 § 2570; 1854 p 410 § 5.]

43.09.050 General duties of auditor (as amended by 1977 1st ex.s. c 144). The auditor shall:

(1) Except as otherwise specifically provided by law, audit the accounts of all collectors of the revenue and other holders of public money required by law to pay the same into the treasury;

(2) In his discretion, inspect the books of any person charged with the receipt, safekeeping, and disbursement of public moneys;

(3) Inform the attorney general in writing of the necessity for him to direct prosecutions in the name of the state for all official delinquencies in relation to the assessment, collection, and payment of the revenue, against all persons who, by any means, become possessed of public money or property, and fail to pay over or deliver the same, and against all debtors of the state;

(4) Give information in writing to the legislature, whenever required, upon any subject relating to the financial affairs of the state, or touching any duties of his office;

(5) Report to the chief fiscal officer of the executive branch in writing the names of all persons who have received any moneys belonging to the state, and have not accounted therefor;

(6) Authenticate with his official seal papers issued from his office;

(7) Make his official report biennially, on or before the 31st of December, in each year, preceding the meeting of the legislature. [1977 1st ex.s. c 144 § 7; 1971 ex.s. c 170 § 1; 1965 c 8 § 43.09.050. Prior: 1890 p 636 § 5; RRS § 11001; prior: Code 1881 § 2570; 1854 p 410 § 5.]

Reviser's note: RCW 43.09.050 was amended twice during the 1977 regular and first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Severability—1971 ex.s. c 170: "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

170 § 5.] This applies to the 1971 amendments to RCW 43.09.050, 43.09.310, 43.88.160 and to RCW 44.28.085.

Advances: Chapter 42.26 RCW.

"Chief fiscal officer of the executive branch" defined: RCW 43.41.108.

Information to legislature: RCW 43.88.160(3).

Post-audit duties: RCW 43.88.160(3).

Powers and duties, budget and accounting system: RCW 43.88.160(3).

Report of irregularities to attorney general: RCW 43.88.160(3).

Report to legislature: RCW 43.88.160(3).

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

43.09.230 Division of municipal corporations—Annual reports—Comparative statistics. The state auditor shall require from every taxing district and other political subdivisions financial reports covering the full period of each fiscal year, in accordance with the forms and methods prescribed by him, which shall be uniform for all accounts of the same class.

Such reports shall be prepared, certified, and filed with the division within thirty days after the close of each fiscal year.

The reports shall contain accurate statements, in summarized form, of all collections made, or receipts received, by the officers from all sources; all accounts due the public treasury, but not collected; and all expenditures for every purpose, and by what authority authorized; and also: (1) A statement of all costs of ownership and operation, and of all income, of each and every public service industry owned and operated by a municipality; (2) a statement of the entire public debt of every taxing district, to which power has been delegated by the state to create a public debt, showing the purpose for which each item of the debt was created, and the provisions made for the payment thereof; (3) a classified statement of all receipts and expenditures by any public institution; together with such other information as may be required by the state auditor.

The reports shall be certified as to their correctness by the state auditor, his deputies, or other person legally authorized to make such certificate.

Their substance shall be published in an annual volume of comparative statistics at the expense of the state as a public document. [1977 c 75 § 41; 1965 c 8 § 43.09.230. Prior: 1909 c 76 § 5; RRS § 9955.]

Chapter 43.10 ATTORNEY GENERAL

Sections

- 43.10.035 Prosecutions for official delinquencies in the assessment, collection and payment of revenue; failure to pay over or deliver public money or property; and against all debtors of the state.
- 43.10.100 Annual report.

43.10.035 Prosecutions for official delinquencies in the assessment, collection and payment of revenue; failure to pay over or deliver public money or property; and

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against all debtors of the state. Upon receipt of information from the state auditor as provided in *RCW 43.09.050(3) as now or hereafter amended, the attorney general shall direct prosecutions in the name of the state for all official delinquencies in relation to the assessment, collection, and payment of the revenue, against all persons who, by any means, become possessed of public money or property, and fail to pay over or deliver the same, and against all debtors of the state. [1977 1st ex.s. c 144 § 9.]

***Reviser's note:** RCW 43.09.050 was amended twice during the 1977 regular and first extraordinary sessions. The reference to subsection (3) of RCW 43.09.050 apparently refers to that section as amended by 1977 1st ex.s. c 144 § 7.

43.10.100 Annual report. The attorney general shall annually prepare and report to the governor and the legislature a concise statement of all matters pertaining to his official duties, making such suggestions for lessening the public expenses and promoting frugality in the public offices as he deems expedient and proper. [1977 c 75 § 42; 1965 c 8 § 43.10.100. Prior: 1929 c 92 § 5; RRS § 11033; prior: 1888 p 8 § 7.]

Chapter 43.17

ADMINISTRATIVE DEPARTMENTS AND AGENCIES—GENERAL PROVISIONS

Sections

- 43.17.010 Departments created (as amended by 1977 1st ex.s. c 151).
- 43.17.010 Departments created (as amended by 1977 1st ex.s. c 334).
- 43.17.020 Chief executive officers—Appointment (as amended by 1977 1st ex.s. c 151).
- 43.17.020 Chief executive officers—Appointment (as amended by 1977 1st ex.s. c 334).
- 43.17.100 Surety bonds for appointive state officers and employees.

43.17.010 Departments created (as amended by 1977 1st ex.s. c 151). There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fisheries, (6) the department of game, (7) the department of transportation, (8) the department of motor vehicles, (9) the department of general administration, (10) the department of commerce and economic development, (11) the department of veterans affairs, (12) the department of revenue, and (13) the department of retirement systems, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide. [1977 1st ex.s. c 151 § 20. Prior: 1975-'76 2nd ex.s. c 115 § 19; 1975-'76 2nd ex.s. c 105 § 24; 1971 c 11 § 1; prior: 1970 ex.s. c 62 § 28; 1970 ex.s. c 18 § 50; 1969 c 32 § 1; prior: 1967 ex.s. c 26 § 12; 1967 c 242 § 12; 1965 c 156 § 20; 1965 c 8 § 43.17.010; prior: 1957 c 215 § 19; 1955 c 285 § 2; 1953 c 174 § 1; prior: (i) 1937 c 111 § 1, part; RRS § 10760-2, part. (ii) 1935 c 176 § 1; 1933 c 3 § 1; 1929 c 115 § 1; 1921 c 7 § 2; RRS § 10760. (iii) 1945 c 267 § 1, part; Rem. Supp. 1945 § 10459-1, part. (iv) 1947 c 114 § 5; Rem. Supp. 1947 § 10786-10c.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Federal requirements—Severability—1977 1st ex.s. c 151: See RCW 47.98.070 and 47.98.080.

43.17.010 Departments created (as amended by 1977 1st ex.s. c 334). There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fisheries, (6) the department of game, (7) the department of highways, (8) the department of licensing, (9) the department of general administration, (10) the department of commerce and economic development, (11) the department of veterans affairs, (12) the department of revenue, and (13) the department of retirement systems, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide. [1977 1st ex.s. c 334 § 5; 1977 c 7 § 1. Prior: 1975-'76 2nd ex.s. c 115 § 19; 1975-'76 2nd ex.s. c 105 § 24; 1971 c 11 § 1; prior: 1970 ex.s. c 62 § 28; 1970 ex.s. c 18 § 50; 1969 c 32 § 1; prior: 1967 ex.s. c 26 § 12; 1967 c 242 § 12; 1965 c 156 § 20; 1965 c 8 § 43.17.010; prior: 1957 c 215 § 19; 1955 c 285 § 2; 1953 c 174 § 1; prior: (i) 1937 c 111 § 1, part; RRS § 10760-2, part. (ii) 1935 c 176 § 1; 1933 c 3 § 1; 1929 c 115 § 1; 1921 c 7 § 2; RRS § 10760. (iii) 1945 c 267 § 1, part; Rem. Supp. 1945 § 10459-1, part. (iv) 1947 c 114 § 5; Rem. Supp. 1947 § 10786-10c.]

Reviser's note: RCW 43.17.010 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session of the legislature, see RCW 1.12.025.

Reviser's note: Powers, duties, and functions of highway department transferred to department of transportation; see RCW 47.01.031. Term "department of highways" means department of transportation; see RCW 47.04.015.

Effective date—1977 1st ex.s. c 334: See note following RCW 46.01.011.

Severability—1975-'76 2nd ex.s. c 105: See note following RCW 41.04.270.

43.17.020 Chief executive officers—Appointment (as amended by 1977 1st ex.s. c 151). There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fisheries, (6) the director of game, (7) the secretary of transportation, (8) the director of motor vehicles, (9) the director of general administration, (10) the director of commerce and economic development, (11) the director of veterans affairs, (12) the director of revenue, and (13) the director of retirement systems.

Such officers, except the secretary of transportation and the director of game, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. If a vacancy occurs while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate. The secretary of transportation shall be appointed by the transportation commission as prescribed by RCW 47.01.041, and the director of game shall be appointed by the game commission. [1977 1st ex.s. c 151 § 21. Prior: 1975-'76 2nd ex.s. c 115 § 20; 1975-'76 2nd ex.s. c 105 § 25; 1971 c 11 § 2; prior: 1970 ex.s. c 62 § 29; 1970 ex.s. c 18 § 51; 1969 c 32 § 2; prior: 1967 ex.s. c 26 § 13; 1967 c 242 § 13; 1965 c 156 § 21; 1965 c 8 § 43.17.020; prior: 1957 c 215 § 20; 1955 c 285 § 3; 1953 c 174 § 2; prior: (i) 1935 c 176 § 2; 1933 c 3 § 2; 1929 c 115 § 2; 1921 c 7 § 3; RRS § 10761. (ii) 1937 c 111 § 1, part; RRS § 10760. (iii) 1945 c 267 § 1, part; Rem. Supp. 1945 § 10459-1, part.]

Reviser's note: The "director of motor vehicles" redesignated the "director of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Federal requirements—Severability—1977 1st ex.s. c 151: See RCW 47.98.070 and 47.98.080.

43.17.020 Chief executive officers—Appointment (as amended by 1977 1st ex.s. c 334). There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fisheries, (6) the director of game, (7) the director of highways, (8) the director of licensing, (9) the director of general administration, (10) the director of commerce and economic development, (11) the director of veterans affairs, (12) the director of revenue, and (13) the director of retirement systems.

Such officers, except the director of highways and the director of game, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. If a vacancy occurs while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate, when he shall present to that body his nomination for the office. The director of highways shall be appointed by the state highway commission, and the director of game shall be appointed by the game commission. [1977 1st ex.s. c 334 § 6; 1977 c 7 § 2. Prior: 1975-'76 2nd ex.s. c 115 § 20; 1975-'76 2nd ex.s. c 105 § 25; 1971 c 11 § 2; prior: 1970 ex.s. c 62 § 29; 1970 ex.s. c 18 § 51; 1969 c 32 § 2; prior: 1967 ex.s. c 26 § 13; 1967 c 242 § 13; 1965 c 156 § 21; 1965 c 8 § 43.17.020; prior: 1957 c 215 § 20; 1955 c 285 § 3; 1953 c 174 § 2; prior: (i) 1935 c 176 § 2; 1933 c 3 § 2; 1929 c 115 § 2; 1921 c 7 § 3; RRS § 10761. (ii) 1937 c 111 § 1, part; RRS § 10760. (iii) 1945 c 267 § 1, part; Rem. Supp. 1945 § 10459-1, part.]

Reviser's note: RCW 43.17.020 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Reviser's note: Powers, duties, and functions of highway department transferred to department of transportation; see RCW 47.01.031. Term "department of highways" means department of transportation; see RCW 47.04.015.

Effective date—1977 1st ex.s. c 334: See notes following RCW 46.01.011.

Severability—1975-'76 2nd ex.s. c 105: See note following RCW 41.04.270.

43.17.100 Surety bonds for appointive state officers and employees. Every appointive state officer and employee of the state shall give a surety bond, payable to the state in such sum as shall be deemed necessary by the director of the department of general administration, conditioned on the honesty of the officer or employee and for the accounting of all property of the state that shall come into his possession by virtue of his office or employment, which bond shall be approved as to form by the attorney general and shall be filed in the office of the secretary of state.

The director of general administration may purchase one or more blanket surety bonds for the coverage required in this section.

Any bond required by this section shall not be considered an official bond and shall not be subject to chapter 42.08 RCW. [1977 1st ex.s. c 270 § 7; 1975 c 40 § 6; 1965 c 8 § 43.17.100. Prior: 1921 c 7 § 16; RRS § 10774.]

Construction—1977 1st ex.s. c 270: See RCW 43.19.19364.

Official bonds: Chapter 42.08 RCW.

Powers and duties of director of general administration as to official bonds: RCW 43.19.540.

Chapter 43.19

DEPARTMENT OF GENERAL ADMINISTRATION

Sections

43.19.020	Supervisor of banking—Appointment—Qualifications—Examiners—Deputization of assistant.
43.19.030	Oath of bank examiners—Liability for acts performed in good faith.
43.19.060	Repealed.
43.19.070	Repealed.
43.19.090	Supervisor's annual report—Contents.
43.19.100	Supervisor of savings and loan associations—Appointment—Qualifications—Deputization of assistant.
43.19.120	Repealed.

- 43.19.190 State purchasing and material control director— Powers and duties.
- 43.19.1906 Competitive bids—Sealed bids, exceptions.
- 43.19.1935 Insurance and bonds—Procurement through risk management office.
- 43.19.19361 Risk management—State program of—Principles.
- 43.19.19362 Risk management—Office created—Powers and duties—Report to legislature required— Contents.
- 43.19.19363 Risk management—Definitions applicable to RCW 43.19.19361 and 43.19.19362.
- 43.19.19364 Construction—1977 1st ex.s. c 270.
- 43.19.19365 Risk management office—Expiration.
- 43.19.530 Purchase of products and services from sheltered workshops and programs—Authorized—Fair market price.
- 43.19.640 Printing and duplicating management center— Intent.
- 43.19.645 Printing and duplicating management center— Established—Expiration.
- 43.19.650 Printing and duplicating management center— Powers and duties.
- 43.19.655 Printing and duplicating management center— Acquisition of duplicating equipment by state agencies prohibited unless authorized by center.
- 43.19.660 Printing and duplicating management center—Fees and charges—Intent—Report.
- 43.19.665 Printing and duplicating management center— Printing and duplicating committee abolished— Transfer of powers, duties and functions.

43.19.020 Supervisor of banking—Appointment—Qualifications—Examiners—Deputization of assistant. The director of general administration shall appoint and deputize an assistant director to be known as the supervisor of banking, who shall have charge and supervision of the division of banking. With the approval of the director, he may appoint and employ bank examiners and such other assistants and personnel as may be necessary to carry on the work of the division.

No person shall be eligible for appointment as supervisor of banking unless he is, and for the last two years prior to his appointment has been, a citizen of the United States and a resident of this state; nor if he is interested in any bank or trust company as director, officer, or stockholder.

In the event of the supervisor's absence the director of general administration shall have the power to deputize one of the assistants of the supervisor to exercise all the powers and perform all the duties prescribed by law with respect to banks and trust companies, mutual savings banks, loan agencies, and other similar institutions that are performed by the supervisor so long as the supervisor is absent: *Provided*, That such deputized supervisor shall not have the power to approve or disapprove new charters, licenses, branches, and satellite facilities, unless such action has received the prior written approval of the supervisor. Any person so deputized shall possess the same qualifications as those set out in this section for the supervisor. [1977 1st ex.s. c 185 § 1; 1965 c 8 § 43.19.020. Prior: 1955 c 285 § 5; prior: (i) 1919 c 209 § 2; 1917 c 80 § 2; RRS § 3209. (ii) 1945 c 123 § 1; 1935 c 176 § 12; Rem. Supp. 1945 § 10786–11.]

43.19.030 Oath of bank examiners—Liability for acts performed in good faith. Before entering upon his office each bank examiner shall take and subscribe an oath faithfully to discharge the duties of his office.

Oaths shall be filed with the secretary of state.

Neither the supervisor of banking, any deputy supervisor, nor any bank examiner shall be personally liable for any act done by him in good faith in the performance of his duties. [1977 1st ex.s. c 270 § 8; 1975 c 40 § 7; 1965 c 8 § 43.19.030. Prior: 1943 c 217 § 1; 1919 c 209 § 3; 1917 c 80 § 3; Rem. Supp. 1943 § 3210.]

Construction—1977 1st ex.s. c 270: See RCW 43.19.19364.

Powers and duties of director of general administration as to official bonds: RCW 43.19.540.

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

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

43.19.090 Supervisor's annual report—Contents. The supervisor shall file in his office all reports required to be made to him, prepare and furnish to banks and trust companies blank forms for such reports as are required of them, and each year make a report to the governor showing:

- (1) A summary of the conditions of the banks and trust companies at the date of their last report; and
 - (2) A list of those organized or closed during the year.
- He may publish such other statements, reports, and pamphlets as he deems advisable. [1977 c 75 § 43; 1965 c 8 § 43.19.090. Prior: 1917 c 80 § 13; RRS § 3220.]

43.19.100 Supervisor of savings and loan associations—Appointment—Qualifications—Deputization of assistant. The director of general administration, shall appoint and deputize an assistant director to be known as the supervisor of savings and loan associations, who shall have charge and supervision of the division of savings and loan associations.

With the approval of the director, he may appoint and employ such assistants and personnel as may be necessary to carry on the work of the division.

No person shall be eligible for appointment as supervisor of savings and loan associations unless he is, and for at least two years prior to his appointment has been, a citizen of the United States and a resident of this state, and has had at least two years' practical experience in savings and loan employment, examination, or supervision.

In the event of the supervisor's absence the director of general administration shall have the power to deputize one of the assistants of the supervisor to perform day to day functions that are performed by the supervisor so long as the supervisor is absent: *Provided*, That such deputized supervisor shall not have the power to approve or disapprove new charters, branches, or satellite facilities. Any person so deputized shall possess the same qualifications as those set out in this section for the supervisor. [1977 1st ex.s. c 185 § 2; 1965 c 8 § 43.19.100. Prior: 1955 c 285 § 7; 1935 c 176 § 13; RRS § 10786–12.]

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

43.19.190 State purchasing and material control director—Powers and duties. The director of general administration, through the state purchasing and material control director, shall:

(1) Establish and staff such administrative organizational units within the division of purchasing as may be necessary for effective administration of the provisions of RCW 43.19.190 through 43.19.1939;

(2) Purchase all material, supplies, services and equipment needed for the support, maintenance, and use of all state institutions, colleges, community colleges and universities, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state: *Provided*, That the provisions of *this act shall not apply in any manner to the operation of the state legislature except as requested by said legislature: *Provided*, That primary authority for the purchase of specialized equipment, instructional and research material for their own use shall rest with the colleges, community colleges and universities: *Provided further*, That primary authority for the purchase of materials, supplies and equipment for resale to other than public agencies shall rest with the state agency concerned: *Provided further*, That authority to purchase services as included herein does not apply to personal services authorized for direct acquisition from vendors by state organizations and filed under the provisions of RCW 39.29.010 through 39.29.030, unless such organization specifically requests assistance from the division of purchasing in obtaining personal services and resources are available within the division to provide such assistance: *Provided further*, That the authority for the purchase of insurance and bonds shall rest with the risk manager under RCW 43.19.1935 as now or hereafter amended;

(3) Provide the required staff assistance for the state supply management advisory board through the division of purchasing;

(4) Have authority to delegate to state agencies authorization to purchase or sell, which authorization shall specify restrictions as to dollar amount or to specific types of material, equipment, services and supplies: *Provided*, That acceptance of the purchasing authorization by a state agency does not relieve such agency from conformance with other sections of RCW 43.19.190 through 43.19.1939, as now or hereafter amended, or from policies established by the director after consultation with the state supply management advisory board: *Provided further*, That delegation of such authorization to a state agency, including an educational institution, to purchase or sell material, equipment, services, and supplies shall not be granted, or otherwise continued under a previous authorization, if such agency is not in substantial compliance with overall state purchasing and material control policies as established herein;

(5) Contract for the testing of material, supplies, and equipment with public and private agencies as necessary and advisable to protect the interests of the state;

(6) Prescribe the manner of inspecting all deliveries of supplies, materials, and equipment purchased through the division;

(7) Prescribe the manner in which supplies, materials, and equipment purchased through the division shall be delivered, stored, and distributed;

(8) Provide for the maintenance of a catalogue library, manufacturers' and wholesalers' lists, and current market information;

(9) Provide for a commodity classification system and may, in addition, provide for the adoption of standard specifications after receiving the recommendation of the supply management advisory board;

(10) Provide for the maintenance of inventory records of supplies, materials, equipment, and other property;

(11) Prepare rules and regulations governing the relationship and procedures between the division of purchasing and state agencies and vendors;

(12) Publish procedures and guidelines for compliance by all state agencies, including educational institutions, which implement overall state purchasing and material control policies;

(13) Conduct periodic visits to state agencies, including educational institutions, to determine if statutory provisions and supporting purchasing and material control policies are being fully implemented, and based upon such visits, take corrective action to achieve compliance with established purchasing and material control policies under existing statutes when required. [1977 1st ex.s. c 270 § 4; 1975-'76 2nd ex.s. c 21 § 2; 1971 c 81 § 110; 1969 c 32 § 3. Prior: 1967 ex.s. c 104 § 2; 1967 ex.s. c 8 § 51; 1965 c 8 § 43.19.190; prior: 1959 c 178 § 1; 1957 c 187 § 1; 1955 c 285 § 12; prior: (i) 1935 c 176 § 21; RRS § 10786-20. (ii) 1921 c 7 § 42; RRS § 10800. (iii) 1955 c 285 § 12; 1921 c 7 § 37, part; RRS § 10795, part.]

***Reviser's note:** "this act" [1975-'76 2nd ex.s. c 21] consists of amendments to RCW 43.19.180, 43.19.190, 43.19.1902, 43.19.1904, 43.19.1906, 43.19.1917, 43.19.1918, 43.19.1919, 43.19.1923, 43.19.1937 and to RCW 43.19.1905-43.19.19054.

Construction—1977 1st ex.s. c 270: See RCW 43.19.19364.

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

Federal surplus property: Chapter 39.32 RCW.

Institution made goods, supervisor to give preference to: RCW 72.60.190.

Purchase of blind made products and services: Chapter 19.06 RCW.

43.19.1906 Competitive bids—Sealed bids, exceptions. Insofar as practicable, all purchases and sales shall be based on competitive bids and a formal sealed bid procedure shall be used as standard procedure for all purchases and contracts for purchases and sales executed by the state purchasing and material control director and under the powers granted by RCW 43.19.190 through 43.19.1939, as now or hereafter amended. This requirement shall also apply to purchases and contracts for purchases and sales executed by agencies, including educational institutions, under delegated authority granted in accordance with provisions of RCW 43.19.190 as now or hereafter amended. However, formal sealed bidding shall not be necessary for:

(1) Emergency purchases if such sealed bidding procedure would prevent or hinder the emergency from being met appropriately;

(2) Purchases not exceeding twenty-five hundred dollars: *Provided*, That the state director of general administration shall establish procedures to assure that purchases made by or on behalf of the various state agencies shall not be made so as to avoid the twenty-five hundred dollar bid limitation: *Provided further*, That the state purchasing and material control director is authorized to reduce this formal sealed bid limit of twenty-five hundred dollars to a lower dollar amount for purchases by individual state agencies, including purchases of specialized equipment, instructional, and research materials by colleges and universities, if considered necessary to maintain full disclosure of competitive procurement or otherwise to achieve overall state efficiency and economy in purchasing and material control. Quotations from two hundred dollars to twenty-five hundred dollars shall be secured from enough vendors to assure establishment of a competitive price. A record of competition for all such purchases from two hundred dollars to twenty-five hundred dollars shall be documented for audit purposes on a standard state form approved by the forms management center under the provisions of RCW 43.19.510. Purchases up to two hundred dollars may be made without competitive bids based on buyer experience and knowledge of the market in achieving maximum quality at minimum cost: *Provided*, That this two hundred dollar direct buy limit without competitive bids may be increased incrementally as required to a maximum of four hundred dollars by unanimous vote by all members of the state supply management advisory board, if warranted by increases in purchasing costs due to inflationary trends;

(3) Purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation; and

(4) Purchases of insurance and bonds by the risk management office under RCW 43.19.1935 as now or hereafter amended. [1977 1st ex.s. c 270 § 5; 1975-'76 2nd ex.s. c 21 § 8; 1965 c 8 § 43.19.1906. Prior: 1959 c 178 § 4.]

Construction—1977 1st ex.s. c 270: See RCW 43.19.19364.

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

43.19.1935 Insurance and bonds—Procurement through risk management office. As a means of providing for the procurement of insurance and bonds on a volume rate basis, the director of general administration through the risk management office shall purchase or contract for the needs of state agencies in relation to all such insurance and bonds: *Provided*, That the individual statutory bonds of elected state officials, insurance requirements of colleges and universities, insurance requirements of toll project agencies, and insurance covering proprietary activities of state agencies, other than motor vehicle coverage, may be procured directly and independently by them after consultation with the risk management office: *Provided further*, That authority to purchase insurance may be delegated to state agencies.

Insurance in force shall be reported to the risk management office periodically under rules established by the director. Nothing contained in this section shall prohibit the use of licensed agents or brokers for the procurement and service of insurance.

The amounts of insurance or bond coverage shall be as fixed by law, or if not fixed by law, such amounts shall be as fixed by the director of the department of general administration.

The premium cost for insurance acquired and bonds furnished shall be paid from appropriations made to the state agency or agencies for which procurement is made, and all vouchers drawn in payment therefor shall bear the written approval of the risk management office prior to the issuance of the state warrant in payment therefor. Where deemed advisable the premium cost for insurance and bonds may be paid by the central stores revolving fund which fund shall be reimbursed by the agency or agencies for which procurement is made. [1977 1st ex.s. c 270 § 6; 1975 c 40 § 9; 1965 c 8 § 43.19.1935. Prior: 1959 c 178 § 18.]

Construction—1977 1st ex.s. c 270: See RCW 43.19.19364.

Powers and duties of director of general administration as to official bonds: RCW 43.19.540.

43.19.19361 Risk management—State program of—Principles. It is the policy of the state for the management of risks to which it is exposed to apply the following principles consistently in a state program of risk management:

(1) To identify those liability and property risks which may have a significant economic impact on the state;

(2) To evaluate risk in terms of the state's ability to fund potential loss rather than the ability of an individual agency to fund potential loss;

(3) To eliminate or improve conditions and practices which contribute to loss whenever practical;

(4) To assume risks to the maximum extent practical;

(5) To provide flexibility within the state program to meet the unique requirements of any state agency for insurance coverage or service;

(6) To purchase commercial insurance:

(a) When the size and nature of the potential loss make it in the best interest of the state to purchase commercial insurance; or

(b) When the fiduciary of encumbered property insists on commercial insurance; or

(c) When the interest protected is not a state interest and an insurance company is desirable as an intermediary; or

(d) When services provided by an insurance company are considered necessary; or

(e) When services or coverages provided by an insurance company are cost-effective; or

(f) When otherwise required by statute. [1977 1st ex.s. c 270 § 1.]

Construction—1977 1st ex.s. c 270: See RCW 43.19.19364.

43.19.19362 Risk management—Office created—Powers and duties—Report to legislature required—Contents. There is hereby created a risk management office within the department of general

administration. The director of general administration shall implement the risk management policy in RCW 43.19.19361 through the risk management office. The director of general administration shall appoint a risk manager to supervise the risk management office. The risk management office shall make recommendations when appropriate to state agencies on the application of prudent safety, security, loss prevention, and loss minimization methods so as to reduce or avoid risk or loss. The state supply management advisory board shall serve as the advisory board for the risk management office. The director of general administration shall submit a risk management progress report to the governor, with a copy to the standing committees having jurisdiction on insurance in the senate and the house of representatives at the first scheduled legislative session after December 31, 1977. The report shall include appropriate recommendations for new or amended legislation, as required, and shall at least address the following:

- (1) Improving loss control practices;
- (2) Self-insuring risks of loss to state-owned property except where bond indentures or other special considerations require the purchase of insurance;
- (3) Consolidating fire insurance coverage for properties requiring insurance by bond indenture;
- (4) Establishing an emergency fund to provide assistance to state agencies in the event of serious loss from fire or other peril;
- (5) Self-insuring liability risks to public and professional third parties;
- (6) Increasing funding of the tort claims revolving fund to reflect an expanded and formalized self-insurance system;
- (7) Purchasing a program of excess liability coverage above a selected self-insurance limit;
- (8) Inhibiting factors which have prevented full and prompt implementation of risk management policies established by the legislature in RCW 43.19.19361.
- (9) Listing of state-wide savings and cost avoidances which are expected to be achieved in the 1977-79 biennium, and each biennium thereafter, as a result of implementation of established risk management policies; and
- (10) The effectiveness of the supply management advisory board as the advisory board for the risk management office. [1977 1st ex.s. c 270 § 2.]

Construction—1977 1st ex.s. c 270: See RCW 43.19.19364.

43.19.19363 Risk management—Definitions applicable to RCW 43.19.19361 and 43.19.19362. As used in RCW 43.19.19361 and 43.19.19362:

- (1) "State agency" includes any state office, agency, commission, department, or institution, including colleges, universities, and community colleges, financed in whole or part from funds appropriated by the legislature; and
- (2) "Risk management" means the total effort and continuous step by step process of risk identification, measurement, minimization, assumption, transfer, and loss adjustment which is aimed at protecting assets and revenues against accidental loss. [1977 1st ex.s. c 270 § 3.]

Construction—1977 1st ex.s. c 270: See RCW 43.19.19364.

43.19.19364 Construction—1977 1st ex.s. c 270. Nothing in *this 1977 amendatory act shall be construed as amending, repealing, or otherwise affecting RCW 28B.20.250 through 28B.20.255. [1977 1st ex.s. c 270 § 9.]

***Reviser's note:** "this 1977 amendatory act" consists of RCW 43.19.19361, 43.19.19362, 43.19.19363, 43.19.19364, and 43.19.19365, the 1977 amendments to RCW 43.17.100, 43.19.030, 43.19.190, 43.19.1906, and 43.19.1935, and the repeal of RCW 75.08.023.

43.19.19365 Risk management office—Expiration. The risk management office shall cease to exist on June 30, 1981, unless extended by law for an additional fixed period of time. [1977 1st ex.s. c 270 § 11.]

Construction—1977 1st ex.s. c 270: See RCW 43.19.19364.

43.19.530 Purchase of products and services from sheltered workshops and programs—Authorized—Fair market price. The state agencies and departments are hereby authorized to purchase products and/or services manufactured or provided by sheltered workshops and programs of the department of social and health services. Such purchases shall be at the fair market price of such products and services as determined by the division of purchasing of the department of general administration. To determine the fair market price the division shall use the last comparable bid on the products and/or services or in the alternative the last price paid for the products and/or services. The increased cost of labor, materials, and other documented costs since the last comparable bid or the last price paid are additional cost factors which shall be considered in determining fair market price. Upon the establishment of the fair market price as provided for in this section the division is hereby empowered to negotiate directly with sheltered workshops or officials in charge of the programs of the department of social and health services for the purchase of the products or services. [1977 1st ex.s. c 10 § 2; 1974 ex.s. c 40 § 3.]

43.19.640 Printing and duplicating management center—Intent. It is the intent of RCW 43.19.640 through 43.19.665 that the current activities of the printing and duplicating committee, presently fragmented within the department of general administration, the office of the public printer, and the office of program planning and fiscal management, be consolidated as an organizational entity, within the department of general administration, which shall expire on June 30, 1981. [1977 1st ex.s. c 86 § 1.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Severability—1977 1st ex.s. c 86: "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." [1977 1st ex.s. c 86 § 7.] The foregoing annotation applies to RCW 43.19.640 through 43.19.665 and to the repeal of RCW 43.77.010 through 43.77.050.

43.19.645 Printing and duplicating management center—Established—Expiration. The director of the department of general administration shall establish and staff an activity within the department to be known as the printing and duplicating management center. On June 30, 1981, all powers, duties, and functions of the printing and duplicating management center shall cease to exist. Not later than January 31, 1981, the director of the department of general administration shall submit to the forty-seventh legislature recommendations regarding functional disposition of the center's responsibilities. [1977 1st ex.s. c 86 § 2.]

43.19.650 Printing and duplicating management center—Powers and duties. The director of general administration, through the printing and duplicating management center, shall hereafter approve or take such other action as is deemed necessary regarding the purchase or acquisition of any printing, microfilm, or other duplicating equipment, other than typewriters, by any official or agency of the state.

The staff of the printing and duplicating management center shall develop a copier, duplicating, printing, and microfilm plan for the state, shall monitor implementation of the plan, shall recommend any necessary changes in the plan to the director, and shall develop and promulgate status reports to the governor, the legislative budget committee, and to the pertinent executive branch agencies. [1977 1st ex.s. c 86 § 3.]

43.19.655 Printing and duplicating management center—Acquisition of duplicating equipment by state agencies prohibited unless authorized by center. Hereafter no state agency, as defined in RCW 43.19.560(2), shall acquire by purchase or otherwise any printing, microfilm, or other duplicating equipment, other than typewriters, unless authorized by the printing and duplicating management center to so acquire. [1977 1st ex.s. c 86 § 4.]

43.19.660 Printing and duplicating management center—Fees and charges—Intent—Report. The operation of the printing and duplicating management center shall be financed by the director of the department of general administration from moneys appropriated by the legislature.

The director of the department of general administration shall be responsible for establishing realistic fees to be charged for services rendered by the printing and duplicating management center. The director of the office of program planning and fiscal management shall approve any fees prior to their implementation. All fees and charges collected for services rendered by the printing and duplicating management center shall be deposited in the general fund. It is the intent of RCW 43.19.640 through 43.19.665 that the fees paid by the agencies and the savings experienced from the activities of the printing and duplicating management center shall more than offset the operating costs of the center.

The director of the department of general administration shall, in December of each calendar year, submit a report of all reported savings by each agency for the

year to the senate committee on ways and means, the house committee on appropriations, and the legislative budget committee. [1977 1st ex.s. c 86 § 5.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

43.19.665 Printing and duplicating management center—Printing and duplicating committee abolished—Transfer of powers, duties and functions. The state printing and duplicating committee is hereby abolished, and all powers, duties, and functions thereof are transferred to the director of the department of general administration, to be exercised through the printing and duplicating management center. [1977 1st ex.s. c 86 § 6.]

Chapter 43.20

DEPARTMENT OF HEALTH—STATE BOARD OF HEALTH

Sections

43.20.100 Annual report.

43.20.100 Annual report. The state board of health shall make an annual report to the governor including therein suggestions for such legislative action as it deems necessary. [1977 c 75 § 44; 1965 c 8 § 43.20.100. Prior: 1891 c 98 § 11; RRS § 6007.]

Chapter 43.20A

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Sections

43.20A.300 Department as state agency for receipt of federal funds for vocational rehabilitation—Exception.

43.20A.360 Committees and councils—Appointment—Memberships—Terms—Vacancies—Travel expenses.

Juvenile justice act of 1977, department and secretary's duties under: Chapter 13.40 RCW.

43.20A.300 Department as state agency for receipt of federal funds for vocational rehabilitation—Exception. Except as provided in RCW 74.16.440, the department of social and health services shall serve as the sole agency of the state for the receipt of federal funds made available by acts of congress for vocational rehabilitation within this state. [1977 1st ex.s. c 40 § 15; 1970 ex.s. c 18 § 40.]

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

43.20A.360 Committees and councils—Appointment—Memberships—Terms—Vacancies—Travel expenses. The secretary is hereby authorized to appoint such advisory committees or councils as may be required by any federal legislation as a condition to the receipt of federal funds by the department. The secretary may appoint state-wide committees or councils in the following subject areas: (1) Health facilities; (2)

radiation control; (3) children and youth services; (4) blind services; (5) services to the aging; (6) medical and health care; (7) drug abuse and alcoholism; (8) social services; (9) economic services; (10) vocational services; (11) rehabilitative services; (12) public health services; and on such other subject matters as are or come within the department's responsibilities. The secretary shall appoint committees or councils advisory to the department in each service delivery region to be designated by the secretary. The state-wide and the regional councils shall have representation from both major political parties and shall have substantial consumer representation. Such committees or councils shall be constituted as required by federal law or as the secretary in his discretion may determine. The members of the committees or councils shall hold office as follows: one-third to serve one year; one-third to serve two years; and one-third to serve three years. Upon expiration of said original terms, subsequent appointments shall be for three years except in the case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member shall serve more than two consecutive terms.

Members of such state advisory committees or councils may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. Members of regional advisory committees may, in the discretion of the secretary, be paid the same travel expenses as set forth above. [1977 c 75 § 45; 1975-'76 2nd ex.s. c 34 § 98; 1971 ex.s. c 189 § 2.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Chapter 43.21

DEPARTMENT OF CONSERVATION

Sections

43.21.130 Director of ecology—Powers and duties.

43.21.130 Director of ecology—Powers and duties. The director of the department of ecology shall have the following powers and duties:

(1) The supervision of public waters within the state and their appropriation, diversion, and use, and of the various officers connected therewith;

(2) Insofar as may be necessary to assure safety to life or property, he shall inspect the construction of all dams, canals, ditches, irrigation systems, hydraulic power plants, and all other works, systems, and plants pertaining to the use of water, and he may require such necessary changes in the construction or maintenance of said works, to be made from time to time, as will reasonably secure safety to life and property;

(3) He shall regulate and control the diversion of water in accordance with the rights thereto;

(4) He shall determine the discharge of streams and springs and other sources of water supply, and the capacities of lakes and of reservoirs whose waters are being or may be utilized for beneficial purposes;

(5) He shall keep such records as may be necessary for the recording of the financial transactions and statistical data thereof, and shall procure all necessary documents, forms, and blanks. He shall keep a seal of the office, and all certificates by him covering any of his acts or the acts of his office, or the records and files of his office, under such seal, shall be taken as evidence thereof in all courts;

(6) He shall render when required by the governor, a full written report of the work of his office with such recommendations for legislation as he may deem advisable for the better control and development of the water resources of the state;

(7) The director and duly authorized deputies may administer oaths;

(8) He shall establish and promulgate rules governing the administration of chapter 90.03 RCW;

(9) He shall perform such other duties as may be prescribed by law. [1977 c 75 § 46; 1965 c 8 § 43.21-.130. Prior: 1961 c 19 § 1; prior: (i) 1951 c 57 § 3; 1921 c 7 § 72; RRS § 10830. (ii) 1951 c 57 § 3; 1917 c 117 § 8; RRS § 7358.]

Diversion of water, food fish and game fish, provision for: RCW 75.20.050.

Water power development, license fees: RCW 90.16.050, 90.16.060, 90.16.090.

Water rights: Title 90 RCW.

Chapter 43.21A

DEPARTMENT OF ECOLOGY

Sections

43.21A.065 Powers and duties of director of the department of ecology.

43.21A.200 Ecological commission—Matters before commission for advice and guidance, procedure—Commission secretary, duties—Commission staff and facilities—Annual report of commission action.

43.21A.430 Catalytic converters in police, ambulance or emergency aid vehicles—Department's powers restricted in respect thereto.

43.21A.065 Powers and duties of director of the department of ecology. See RCW 43.21.130.

43.21A.200 Ecological commission—Matters before commission for advice and guidance, procedure—Commission secretary, duties—Commission staff and facilities—Annual report of commission action. In matters submitted to the commission for advice and guidance, as set forth in RCW 43.21A.190, it shall be the responsibility of the director to accompany such request with a statement of the background occasioning the request, together with the director's proposal for dealing with the same. Each member shall individually submit to the director in writing his views within such time as the director shall prescribe. In considering a matter submitted to it by the director, the commission shall conduct such public hearings and make such investigations as it deems necessary. The secretary of the commission shall be the director, or an employee of the department designated by the director. It shall be the

duty of the secretary to act as liaison between the commission and department as well as other state agencies; to prepare the minutes of the commission; and otherwise to assist the commission. The director shall furnish to the commission such staff and facilities as may be necessary to fulfill its duties. He shall submit to the governor each year, a report containing a summary of the advice and guidance rendered by the commission. [1977 c 75 § 47; 1970 ex.s. c 62 § 20.]

43.21A.430 Catalytic converters in police, ambulance or emergency aid vehicles—Department's powers restricted in respect thereto. The department of ecology may not adopt, maintain in effect, or enforce any rule requiring the installation or maintenance of a catalytic converter in the exhaust system of any motor vehicle used as a police vehicle, or ambulance, an emergency aid vehicle, or a fire department vehicle, and any catalytic converter in the exhaust system of any such vehicle may be lawfully removed. [1977 1st ex.s. c 264 § 1.]

Chapter 43.21C

STATE ENVIRONMENTAL POLICY

Sections

43.21C.060	Chapter supplementary.
43.21C.080	Notice of action by governmental agency—How publicized—Form—Time limitation for commencing challenge to action.

43.21C.060 Chapter supplementary. The policies and goals set forth in this chapter are supplementary to those set forth in existing authorizations of all branches of government of this state, including state agencies, municipal and public corporations, and counties: *Provided, however,* That any governmental action, not requiring a legislative decision, may be conditioned or denied pursuant to this chapter only on the basis of specific adverse environmental impacts which are both identified in the environmental documents prepared pursuant to the chapter and stated in writing by the responsible official of the acting governmental agency. In the case of counties with a population of more than seventy thousand people and cities with a population of more than thirty-seven thousand people, such conditions or denials made more than one year from September 21, 1977 shall also be based upon policies developed by the appropriate local governmental authority and incorporated into resolutions, regulations, ordinances, plans, or codes. In the case of counties with a population of less than seventy thousand people and cities with a population of less than thirty-seven thousand people, such conditions or denials made more than three years from September 21, 1977 shall also be based upon policies developed by the appropriate local governmental authority, and incorporated into resolutions, regulations, ordinances, plans, or codes: *Provided, further,* That, except for permits and variances issued pursuant to chapter 90.58 RCW, when such a governmental action, not requiring a legislative decision, is conditioned or denied by a nonelected official of a local governmental agency, the decision shall be appealable to the legislative

authority of the acting local governmental agency in accordance with procedures established for such appeals by the legislative authority of the acting local governmental agency. [1977 1st ex.s. c 278 § 2; 1971 ex.s. c 109 § 6.]

43.21C.080 Notice of action by governmental agency—How publicized—Form—Time limitation for commencing challenge to action. (1) Notice of any action taken by a governmental agency may be publicized by the acting governmental agency, the applicant for, or the proponent of such action, in substantially the form as set forth in subsection (3) of this section and in the following manner:

(a) By publishing notice on the same day of each week for two consecutive weeks in a legal newspaper of general circulation in the area where the property which is the subject of the action is located;

(b) By filing notice of such action with the department of ecology at its main office in Olympia prior to the date of the last newspaper publication; and

(c) Except for those actions which are of a nonproject nature, by one of the following methods which shall be accomplished prior to the date of last newspaper publication;

(i) Mailing to the latest recorded real property owners, as shown by the records of the county treasurer, who share a common boundary line with the property upon which the project is proposed through United States mail, first class, postage prepaid.

(ii) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed.

(2) (a) Any action to set aside, enjoin, review, or otherwise challenge any such governmental action for which notice is given as provided in subsection (1) of this section on grounds of noncompliance with the provisions of this chapter shall be commenced within thirty days from the date of last newspaper publication of the notice pursuant to subsection (1) of this section, or be barred: *Provided, however,* That the time period within which an action shall be commenced shall be ninety days (i) for projects to be performed by a governmental agency or to be performed under government contract, or (ii) for thermal power plant projects: *Provided further,* That any subsequent governmental action on the proposal for which notice has been given as provided in subsection (1) of this section shall not be set aside, enjoined, reviewed, or otherwise challenged on grounds of noncompliance with the provisions of RCW 43.21C.030(2)(a) through (h) unless there has been a substantial change in the proposal between the time of the first governmental action and the subsequent governmental action, or unless the action now being considered was identified in an earlier detailed statement or declaration of nonsignificance as being one which would require further environmental evaluation. (b) Any action to challenge a subsequent governmental action based upon any provisions of this chapter shall be commenced within thirty days from the date of last newspaper publication of the subsequent governmental action except (i) for projects to be performed by a governmental agency or to be performed under governmental contract, or (ii)

for thermal power plant projects which shall be challenged within ninety days from the date of last newspaper publication of the subsequent governmental action, or be barred.

(3) The form for such notice of action shall be issued by the department of ecology and shall be made available by the governmental agency taking an action subject to being publicized pursuant to this section, by the county auditor, and/or the city clerk to the project applicant or proposer. The form of such notice shall be substantially as follows:

NOTICE OF ACTION BY

(Government agency or entity)

Pursuant to the provisions of chapter 43.21C RCW, notice is hereby given that:

The ----- (Government agency or entity) did on ----- (date), take the action described below.

Any action to set aside, enjoin, review, or otherwise challenge such action on the grounds of noncompliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act) shall be commenced within ----- days or be barred.

The action taken by ----- (Government agency or entity), notice of which is hereby given, was as follows:

(1) ----- (Here insert description of action taken such as: Adoption Ordinance No. -----; Issued Building Permit; Approved preliminary (or final) plat, etc.)

(2) ----- (Here insert brief description of the complete project or proposal.)

(3) Said action pertained to property commonly known as:

(Sufficient description to locate property, but complete legal description not required)

(4) Pertinent documents may be examined during regular business hours at the office of: ----- located at:

(Location, including room number)

(Name of government agency, proponent, or applicant giving notice)

Filed by -----
(Signature of individual and capacity in which such individual is signing)

[1977 1st ex.s. c 278 § 1; 1974 ex.s. c 179 § 2; 1973 1st ex.s. c 179 § 2.]

Purpose—1974 ex.s. c 179: "The purpose of this 1974 amendatory act is to establish methods and means of providing for full implementation of chapter 43.21C RCW (the state environmental policy act of 1971) in a manner which reduces duplicative and wasteful practices, establishes effective and uniform procedures, encourages public involvement, and promotes certainty with respect to the requirements of the act." [1974 ex.s. c 179 § 1.] This applies to RCW 43.21B.250

and 43.21C.080-43.21C.087, 43.21C.100-43.21C.160, and 43.21C.910.

Chapter 43.21G

ENERGY SUPPLY EMERGENCIES, ALERTS

Sections

- 43.21G.010 Legislative finding—Intent.
- 43.21G.020 Definitions.
- 43.21G.030 Intent in developing energy production, allocation, and consumption programs.
- 43.21G.040 Governor's energy emergency powers—Energy supply alert—Construction of chapter.
- 43.21G.050 Duty of executive authority of state and local governmental agencies to carry out supply alert or emergency measures.
- 43.21G.060 Consideration of actions, orders, etc., of federal authorities.
- 43.21G.070 Compliance by affected persons.
- 43.21G.080 Compliance by distributors—Fair and just reimbursement.
- 43.21G.090 Petition for exception or modification—Appeals.

43.21G.010 Legislative finding—Intent. The legislature finds that energy in various forms is increasingly subject to possible shortages and supply disruptions, to the point that there may be foreseen an emergency situation, and that without the ability to institute appropriate emergency measures to regulate the production, distribution, and use of energy, a severe impact on the public health, safety, and general welfare of our state's citizens may occur. The prevention or mitigation of such energy shortages or disruptions and their effects is necessary for preservation of the public health, safety, and general welfare of the citizens of this state.

It is the intent of this chapter to:

- (1) Establish necessary emergency powers for the governor and define the situations under which such powers are to be exercised;
- (2) Provide penalties for violations of this chapter.

It is further the intent of the legislature that in developing proposed orders under the powers granted in RCW 43.21G.040 as now or hereafter amended the governor may utilize, on a temporary or ad hoc basis, the knowledge and expertise of persons experienced in the technical aspects of energy supply, distribution, or use. Such utilization shall be in addition to support received by the governor from the state energy office under RCW 43.21F.050 and 43.21F.070 and from other state agencies. [1977 1st ex.s. c 328 § 1; 1975-'76 2nd ex.s. c 108 § 15.]

Severability—1977 1st ex.s. c 328: "If any provision of this 1977 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." [1977 1st ex.s. c 328 § 20.]

This annotation refers to RCW 44.39.060, 44.39.070, the 1977 amendments to RCW 43.06.200, 43.06.210, 43.21G.010, 43.21G.020, 43.21G.030, 43.21G.040, 43.21G.050, 43.21G.060, 43.21G.070, 43.21G.080, 43.21G.090, 44.39.010, 44.39.015, 44.39.020, 44.39.025, and to the repeal of RCW 44.39.030, 44.39.035, and 44.39.040.

43.21G.020 Definitions. As used in this chapter:

- (1) "Energy supply facility" means a facility which produces, extracts, converts, transports, or stores energy.

(2) "Energy" means any of the following, individually or in combination: Petroleum fuels; other liquid fuels; natural or synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear material, or electricity.

(3) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, joint operating agency or any other entity, public or private, however organized.

(4) "Committee" means the joint committee on energy and utilities created by RCW 44.39.010 as now or hereafter amended.

(5) "Distributor" means any person, private corporation, partnership, individual proprietorship, utility, including investor-owned utilities, joint operating agencies, municipal utility, public utility district, or cooperative, which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state.

(6) "Regulated distributor" means a public service company as defined in chapter 80.04 RCW which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state.

(7) "Energy supply alert" means a situation which threatens to disrupt or diminish the supply of energy to the extent that the public health, safety, and general welfare may be jeopardized.

(8) "Energy emergency" means a situation in which the unavailability or disruption of the supply of energy poses a clear and foreseeable danger to the public health, safety, and general welfare.

(9) "State or local governmental agency" means any county, city, town, municipal corporation, political subdivision of the state, or state agency. [1977 1st ex.s. c 328 § 2; 1975-'76 2nd ex.s. c 108 § 16.]

Severability—1977 1st ex.s. c 328: See note following RCW 43.21G.010.

43.21G.030 Intent in developing energy production, allocation, and consumption programs. It is the intent of the legislature that the governor shall, in developing plans for the production, allocation, and consumption of energy, give high priority to supplying vital public services including, but not limited to, essential governmental operations, public health and safety functions, emergency services, public mass transportation systems, fish production, food production and processing facilities, including the provision of water to irrigated agriculture, and energy supply facilities, during a condition of energy supply alert or energy emergency. In developing any such plans, provisions should be made for the equitable distribution of energy among the geographic areas of the state.

It is further the intent of the legislature that the governor shall, to the extent possible, encourage and rely upon voluntary programs and local and regional programs for the production, allocation, and consumption of energy and that involvement of energy users and producers be secured in implementing such programs. [1977 1st ex.s. c 328 § 3; 1975-'76 2nd ex.s. c 108 § 17.]

Severability—1977 1st ex.s. c 328: See note following RCW 43.21G.010.

43.21G.040 Governor's energy emergency powers—Energy supply alert—Construction of chapter.

(1) The governor may subject to the definitions and limitations provided in this chapter:

(a) Upon finding that an energy supply alert exists within this state or any part thereof, declare a condition of energy supply alert; or

(b) Upon finding that an energy emergency exists within this state or any part thereof, declare a condition of energy emergency. A condition of energy emergency shall terminate thirty consecutive days after the declaration of such condition if the legislature is not in session at the time of such declaration and if the governor fails to convene the legislature pursuant to Article III, section 7 of the Constitution of the state of Washington within thirty consecutive days of such declaration. If the legislature is in session or convened, in accordance with this subsection, the duration of the condition of energy emergency shall be limited in accordance with subsection (3) of this section.

Upon the declaration of a condition of energy supply alert or energy emergency, the governor shall present to the committee any proposed plans for programs, controls, standards, and priorities for the production, allocation, and consumption of energy during any current or anticipated condition of energy emergency, any proposed plans for the suspension or modification of existing rules of the Washington Administrative Code, and any other relevant matters the governor deems desirable. The governor shall review any recommendations of the committee concerning such plans and matters.

Upon the declaration of a condition of energy supply alert or energy emergency, the emergency powers as set forth in this chapter shall become effective only within the area described in the declaration.

(2) A condition of energy supply alert shall terminate ninety consecutive days after the declaration of such condition unless:

(a) Extended by the governor upon issuing a finding that the energy supply alert continues to exist, and with prior approval of such an extension by the committee; or

(b) Extended by the governor based on a declaration by the president of the United States of a national state of emergency in regard to energy supply; or

(c) Upon the request of the governor, extended by declaration of the legislature by concurrent resolution of a continuing energy supply alert.

In the event any such initial extension is implemented, the condition shall terminate one hundred and fifty consecutive days after the declaration of such condition. One or more subsequent extensions may be implemented through the extension procedures set forth in this subsection. In the event any such subsequent extension is implemented, the condition shall terminate sixty consecutive days after the implementation of such extension.

(3) A condition of energy emergency shall terminate forty-five consecutive days after the declaration of such condition unless:

(a) Extended by the governor upon issuing a finding that the energy emergency continues to exist, and with prior approval of such an extension by the committee; or

(b) Extended by the governor based on a declaration by the president of the United States of a national state of emergency in regard to energy supply; or

(c) Upon the request of the governor, extended by declaration of the legislature by concurrent resolution of a continuing energy emergency.

In the event any such initial extension is implemented, the condition shall terminate ninety consecutive days after the declaration of such condition. One or more subsequent extensions may be implemented through the extension procedures set forth in this subsection. In the event any such subsequent extension is implemented, the condition shall terminate forty-five consecutive days after the implementation of such extension.

(4) A condition of energy supply alert or energy emergency shall cease to exist upon a declaration to that effect by either of the following: (a) The governor; or (b) the legislature, by concurrent resolution, if in regular or extraordinary session: *Provided*, That the governor shall terminate a condition of energy supply alert or energy emergency when the energy supply situation upon which the declaration of a condition of energy supply alert or energy emergency was based no longer exists.

(5) In a condition of energy supply alert, the governor may, as deemed necessary to preserve and protect the public health, safety, and general welfare, and to minimize, to the fullest extent possible, the injurious economic, social, and environmental consequences of such energy supply alert, issue orders to: (a) Suspend or modify existing rules of the Washington Administrative Code of any state agency relating to the consumption of energy by such agency or to the production of energy, and (b) direct any state or local governmental agency to implement programs relating to the consumption of energy by the agency which have been developed by the governor or the agency and reviewed by the committee.

(6) In a condition of energy emergency, the governor may, as deemed necessary to preserve and protect the public health, safety, and general welfare, and to minimize, to the fullest extent possible, the injurious economic, social, and environmental consequences of such an emergency, issue orders to: (a) Implement programs, controls, standards, and priorities for the production, allocation, and consumption of energy; (b) suspend and modify existing pollution control standards and requirements or any other standards or requirements affecting or affected by the use of energy, including those relating to air or water quality control; and (c) establish and implement regional programs and agreements for the purposes of coordinating the energy programs and actions of the state with those of the federal government and of other states and localities.

The governor shall immediately transmit the declaration of a condition of energy supply alert or energy emergency and the findings upon which the declaration is based and any orders issued under the powers granted in this chapter to the committee.

Nothing in this chapter shall be construed to mean that any program, control, standard, priority or other policy created under the authority of the emergency powers authorized by this chapter shall have any continuing legal effect after the cessation of the condition of energy supply alert or energy emergency.

If any provision of this chapter is in conflict with any other provision, limitation, or restriction which is now in effect under any other law of this state, including, but not limited to, chapter 34.04 RCW, this chapter shall govern and control, and such other law or rule or regulation promulgated thereunder shall be deemed superseded for the purposes of this chapter.

Because of the emergency nature of this chapter, all actions authorized or required hereunder, or taken pursuant to any order issued by the governor, shall be exempted from any and all requirements and provisions of the state environmental policy act of 1971, chapter 43.21C RCW, including, but not limited to, the requirement for environmental impact statements.

Except as provided in this section nothing in this chapter shall exempt a person from compliance with the provisions of any other law, rule, or directive unless specifically ordered by the governor. The emergency powers granted to the governor in this chapter shall expire on June 30, 1980. [1977 1st ex.s. c 328 § 4; 1975-'76 2nd ex.s. c 108 § 18.]

Severability—1977 1st ex.s. c 328: See note following RCW 43.21G.010.

43.21G.050 Duty of executive authority of state and local governmental agencies to carry out supply alert or emergency measures. To protect the public welfare during a condition of energy supply alert or energy emergency, the executive authority of each state or local governmental agency is hereby authorized and directed to take action to carry out the orders issued by the governor pursuant to this chapter as now or hereafter amended. [1977 1st ex.s. c 328 § 5; 1975-'76 2nd ex.s. c 108 § 19.]

Severability—1977 1st ex.s. c 328: See note following RCW 43.21G.010.

43.21G.060 Consideration of actions, orders, etc., of federal authorities. In order to attain uniformity, as far as is practicable throughout the United States, in measures taken to aid in energy crisis management, all action taken under this chapter as now or hereafter amended, and all orders and rules made pursuant hereto, shall be taken or made with due consideration for and consistent when practicable with the orders, rules, regulations, actions, recommendations, and requests of federal authorities. [1977 1st ex.s. c 328 § 6; 1975-'76 2nd ex.s. c 108 § 20.]

Severability—1977 1st ex.s. c 328: See note following RCW 43.21G.010.

43.21G.070 Compliance by affected persons. Notwithstanding any provision of law or contract to the contrary, all persons who are affected by an order issued

or action taken pursuant to this chapter as now or hereafter amended shall comply therewith immediately. [1977 1st ex.s. c 328 § 7; 1975-'76 2nd ex.s. c 108 § 21.]

Severability—1977 1st ex.s. c 328: See note following RCW 43.21G.010.

43.21G.080 Compliance by distributors—Fair and just reimbursement. The governor may order any distributor to take such action on his behalf as may be required to implement orders issued pursuant to this chapter as now or hereafter amended: *Provided*, That orders to regulated distributors shall be issued by the Washington utilities and transportation commission in conformance with orders of the governor. No distributor shall be liable for actions taken in accordance with such orders issued by the governor or the Washington utilities and transportation commission.

All allocations of energy from one distributor to another distributor pursuant to orders issued or as a result of actions taken under this chapter as now or hereafter amended are subject to fair and just reimbursement. Such reimbursement for any allocation of energy between regulated distributors shall be subject to the approval of the Washington utilities and transportation commission. A distributor is authorized to enter into agreements with another distributor for the purpose of determining financial or commodity reimbursement. [1977 1st ex.s. c 328 § 8; 1975-'76 2nd ex.s. c 108 § 22.]

Severability—1977 1st ex.s. c 328: See note following RCW 43.21G.010.

43.21G.090 Petition for exception or modification—Appeals. (1) Any person aggrieved by an order issued or action taken pursuant to this chapter as now or hereafter amended may petition the governor and request an exception from or modification of such order or action. The governor may grant, modify, or deny such petition as the public interest may require.

(2) An appeal from any order issued or action taken pursuant to this chapter as now or hereafter amended may be taken to the state supreme court. Such an appeal shall take the form of a petition for a writ of mandamus or prohibition under Article IV, section 4 of the state Constitution, and the supreme court shall have exclusive jurisdiction to hear and act upon such an appeal. Notwithstanding the provisions of chapter 7.16 RCW, or any other applicable statute, the superior courts of this state shall have no jurisdiction to entertain an action or suit relating to any order issued or action taken pursuant to this chapter as now or hereafter amended, nor to hear and determine any appeal from any such order. The provisions of Rule 16.2, Rules of Appellate Procedure, shall apply to any proceedings in the supreme court brought pursuant to this chapter as now or hereafter amended. [1977 1st ex.s. c 328 § 9; 1975-'76 2nd ex.s. c 108 § 23.]

Severability—1977 1st ex.s. c 328: See note following RCW 43.21G.010.

Chapter 43.22

DEPARTMENT OF LABOR AND INDUSTRIES

Sections

43.22.270	Powers and duties.
43.22.330	Annual report.
43.22.350	Mobile homes, commercial coaches and recreational vehicles—Compliance insignia—Fee schedule—Out-of-state sales.
43.22.431	Mobile home safety and construction standards—Enforcement by director of labor and industries authorized.
43.22.432	Mobile home construction and safety standards and regulations—Federal—Adoption by state—Procedure.
43.22.433	Violations—Penalties.
43.22.434	Inspections and investigations necessary to promulgate or enforce mobile home, commercial coach, recreational vehicle, factory built housing, and factory built structure rules—Director's duties.

43.22.270 Powers and duties. The director of labor and industries shall have the power, and it shall be his duty, through and by means of the division of industrial relations:

(1) To study and keep in touch with problems of industrial relations and, from time to time, make public reports and recommendations to the legislature;

(2) To, with the assistance of the industrial statistician, exercise all the powers and perform all the duties in relation to collecting, assorting, and systematizing statistical details relating to labor within the state and systematizing such statistical information to, as far as possible, conform to the plans and reports of the United States department of labor;

(3) To, with the assistance of the industrial statistician, make such special investigations and collect such special statistical information as may be needed for use by the department or division of the state government having need of industrial statistics;

(4) To, with the assistance of the supervisor of employment standards, supervise the administration and enforcement of all laws respecting the employment and relating to the health, sanitary conditions, surroundings, hours of labor, and wages of employees employed in business and industry in accordance with the provisions of chapter 49.12 RCW;

(5) To exercise all the powers and perform all the duties, not specifically assigned to any other division of the department of labor and industries, now vested in, and required to be performed by, the commissioner of labor;

(6) To exercise such other powers and perform such other duties as may be provided by law. [1977 c 75 § 48; 1975 1st ex.s. c 296 § 32; 1973 2nd ex.s. c 16 § 12; 1973 1st ex.s. c 154 § 83; 1965 c 8 § 43.22.270. Prior: 1921 c 7 § 81; RRS 10839.]

Effective date—1975-'76 2nd ex.s. c 5: See RCW 41.58.901.

Severability—1973 2nd ex.s. c 16: See RCW 49.12.900.

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Apprenticeships: Chapter 49.04 RCW.

Arbitration of disputes: Chapter 49.08 RCW.

Public employees' collective bargaining, arbitration of disputes: RCW 41.56.100.

Public employment labor relations: Chapter 41.58 RCW.

Wage collection for aggrieved employees: RCW 49.48.040.

43.22.330 Annual report. The director of labor and industries shall submit to the governor each year a report of business transacted by the department during the preceding fiscal year together with such statistics and information as the governor deems of public interest and such recommendations as the director believes merit consideration in the interest of improved administration. [1977 c 75 § 49; 1965 c 8 § 43.22.330. Prior: (i) 1901 c 74 § 2; RRS § 7587. (ii) 1901 c 74 § 7; RRS § 7592.]

43.22.350 Mobile homes, commercial coaches and recreational vehicles—Compliance insignia—Fee schedule—Out-of-state sales. (1) In compliance with any applicable provisions of this chapter, the director of the department of labor and industries shall establish a schedule of fees, whether on the basis of plan approval or inspection, for the issuance of an insignia which indicates that the mobile home, commercial coach and/or recreational vehicle complies with the provisions of RCW 43.22.340 through 43.22.410 or for any other purpose specifically authorized by any applicable provision of this chapter.

(2) Insignia are not required on mobile homes, commercial coaches and/or recreational vehicles manufactured within this state for sale outside this state which are sold to persons outside this state. [1977 1st ex.s. c 21 § 6; 1970 ex.s. c 27 § 2; 1967 c 157 § 2.]

Construction—1977 1st ex.s. c 21: See note following RCW 43.22.431.

43.22.431 Mobile home safety and construction standards—Enforcement by director of labor and industries authorized. The director of the department of labor and industries may enforce mobile home safety and construction standards adopted by the secretary of housing and urban development under the National Mobile Home Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401–5426). Furthermore, the director may make agreements with the United States government and private inspection organizations to implement the development and enforcement of applicable provisions of this chapter and the National Mobile Home Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401–5426). [1977 1st ex.s. c 21 § 1.]

Construction—1977 1st ex.s. c 21: "This 1977 amendatory act is not intended to repeal, alter, or diminish existing state law respecting mobile homes, commercial coaches, and recreational vehicles in those areas unregulated under federal law." [1977 1st ex.s. c 21 § 4.] This annotation refers to RCW 43.22.431 through 43.22.434 and the 1977 amendment to RCW 43.22.350.

43.22.432 Mobile home construction and safety standards and regulations—Federal—Adoption by state—Procedure. The department may adopt all standards and regulations adopted by the secretary under the National Mobile Home Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401–5426) for mobile home construction and safety standards. If any deletions or amendments to the federal standards or regulations are thereafter made and

notice thereof is given to the department, the standards or regulations shall be considered automatically adopted by the state under this chapter after the expiration of thirty days from publication in the federal register of a final order describing the deletions or amendments unless within that thirty day period the department objects to the deletion or amendment. In case of objection, the department shall proceed under the rule making procedure of chapter 34.04 RCW. [1977 1st ex.s. c 21 § 2.]

Construction—1977 1st ex.s. c 21: See note following RCW 43.22.431.

43.22.433 Violations—Penalties. Any person who violates any of the provisions of RCW 43.22.431 through 43.22.434 and 43.22.350 or any rules or regulations adopted pursuant to RCW 43.22.431 through 43.22.434 and 43.22.350 is guilty of a gross misdemeanor, punishable by a fine not exceeding one thousand dollars or by imprisonment not exceeding one year, or by both such fine and imprisonment. [1977 1st ex.s. c 21 § 3.]

Construction—1977 1st ex.s. c 21: See note following RCW 43.22.431.

43.22.434 Inspections and investigations necessary to promulgate or enforce mobile home, commercial coach, recreational vehicle, factory built housing, and factory built structure rules—Director's duties. (1) The director or the director's authorized representative may conduct such inspections and investigations as may be necessary to promulgate or enforce mobile home, commercial coach, recreational vehicle, factory built housing, and factory built commercial structure rules adopted under the authority of this chapter or to carry out the director's duties under this chapter.

(2) For purposes of enforcement of this chapter, persons duly designated by the director upon presenting appropriate credentials to the owner, operator, or agent in charge may:

(a) At reasonable times and without advance notice enter any factory, warehouse, or establishment in which mobile homes, commercial coaches, recreational vehicles, factory built housing, and factory built commercial structures are manufactured, stored, or held for sale; and

(b) At reasonable times, within reasonable limits, and in a reasonable manner inspect any factory, warehouse, or establishment as required to comply with the standards adopted by the secretary of housing and urban development under the National Mobile Home Construction and Safety Standards Act of 1974. Each inspection shall be commenced and completed with reasonable promptness.

(3) In carrying out the inspections authorized by this section the director may establish, by rule, and impose on mobile home manufacturers, distributors, and dealers such reasonable fees as may be necessary to offset the expenses incurred by the director in conducting the inspections. [1977 1st ex.s. c 21 § 5.]

Construction—1977 1st ex.s. c 21: See note following RCW 43.22.431.

Chapter 43.23

DEPARTMENT OF AGRICULTURE

Sections

43.23.120	Bulletins and reports.
43.23.130	Annual report.

43.23.120 Bulletins and reports. The director of agriculture may publish and distribute bulletins and reports embodying information upon the subjects of agriculture, horticulture, livestock, dairying, foods and drugs, and other matters pertaining to his department. [1977 c 75 § 50; 1965 c 8 § 43.23.120. Prior: (i) 1919 c 126 § 1, part; 1913 c 60 § 6, part; RRS § 2724, part. (ii) 1921 c 7 § 89, part; RRS § 10847, part.]

43.23.130 Annual report. The director of agriculture shall make an annual report to the governor containing an account of all matters pertaining to his department and its administration. [1977 c 75 § 51; 1965 c 8 § 43.23.130. Prior: (i) 1919 c 126 § 1, part; 1913 c 60 § 6, part; RRS § 2724, part. (ii) 1921 c 7 § 89, part; RRS § 10847, part.]

Chapter 43.30

DEPARTMENT OF NATURAL RESOURCES

Sections

43.30.200	Administrator to report to legislature and governor—To recommend legislation.
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43.30.200 Administrator to report to legislature and governor—To recommend legislation. The administrator shall submit to the governor and to the legislature, when required by the governor or the legislature, a written report of the work of the department with such recommendations for legislation as the department may deem advisable for the better management of the lands, forests, and other natural resources of the state. [1977 c 75 § 52; 1965 c 8 § 43.30.200. Prior: 1957 c 38 § 20.]

Chapter 43.31

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

Sections

43.31.040	Divisions of department—Supervisors, managers, executive directors, assistants.
43.31.050	Powers and duties—Tourist promotion division.
43.31.160	Annual reports to governor and legislature.
43.31.915	Small businesses—Legislative declaration.
43.31.920	Definitions.
43.31.925	Office of small business—Duties.
43.31.930	Office of small business—Report to legislature—Contents.
43.31.935	Legislative review of RCW 43.31.915 through 43.31.935.

43.31.040 Divisions of department—Supervisors, managers, executive directors, assistants. The department of commerce and economic development shall be organized into divisions, including (1) the industrial development division, (2) the tourist promotion division,

(3) the research division, (4) the nuclear energy development division, to be known as the "office of nuclear energy development," (5) the foreign trade division, to be known as the "office of foreign trade," (6) the small business division, to be known as the "office of small business," and others as required.

The director of commerce and economic development may appoint such division supervisors, managers, or executive directors, and clerical supervisors and other assistants as may be necessary for the general administration of the department. [1977 1st ex.s. c 70 § 6; 1967 c 221 § 2; 1965 c 10 § 2; 1965 c 8 § 43.31.040. Prior: 1957 c 215 § 4.]

Severability—1977 1st ex.s. c 70: See note following RCW 43.31.915.

Severability—1967 c 221: See note following RCW 43.31.350.

43.31.050 Powers and duties—Tourist promotion division. The director of commerce and economic development, through the tourist promotion division shall:

(1) Conduct promotion of the state, other than that carried on or planned by the various departments or other political subdivisions within the state, for the purpose of attracting visitors to the state, and encouraging tourist expansion in the state;

(2) Formulate, supervise, and carry out a continuous factual information program for the promotion of the state;

(3) Assemble and distribute such data, statistics, information, and exhibits as will publicize and popularize the advantages of the state;

(4) Take active steps by sending representatives to other areas and by inviting representatives from other areas for the purpose of attracting visitors, inviting conferences and conventions, and sportsmen and tourists to the state of Washington;

(5) The department of commerce and economic development may publish maps, pamphlets, and other descriptive material designed to carry out the purposes of this chapter. [1977 c 75 § 53; 1965 c 8 § 43.31.050. Prior: 1957 c 215 § 5.]

43.31.160 Annual reports to governor and legislature. The director shall submit to the governor and the legislature an annual report on the activities, growth, progress, problems, and costs of the programs of the department and its divisions, and on recommendations for future program and needed legislation including legislation designed to encourage investment of risk venture capital in this state. [1977 c 75 § 54; 1965 c 8 § 43.31.160. Prior: 1957 c 215 § 16.]

43.31.915 Small businesses—Legislative declaration. The legislature finds that the small businesses in the state of Washington are essential to the well-being of the state's economy and that these businesses have unique needs and problems that must be dealt with to insure a healthy economy for all of the citizens of the state. The legislature further understands that small businesses represent a majority of the businesses in this state and that it is very important that these small businesses be conserved as they provide jobs for nearly one-

half of Washington's workers, insure essential economic competition, and broaden the industrial base of Washington industries. [1977 1st ex.s. c 70 § 1.]

Severability—1977 1st ex.s. c 70: "If any provision of this 1977 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." [1977 1st ex.s. c 70 § 7.] This annotation applies to RCW 43.31.915 through 43.31.935 and the 1977 amendment to RCW 43.31.040.

43.31.920 Definitions. Unless the context clearly requires otherwise the definitions in this section shall apply throughout RCW 43.31.915 through 43.31.935.

(1) "Small business" means a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit, which is independently owned and operated from all other businesses and which has fifty or fewer employees.

(2) "Department" means department of commerce and economic development.

(3) "Office" means the office of small business within the small business division of the department of commerce and economic development. [1977 1st ex.s. c 70 § 2.]

Severability—1977 1st ex.s. c 70: See note following RCW 43.31.915.

43.31.925 Office of small business—Duties. The department through its office of small business shall:

(1) Provide a focal point and assist small businesses in their dealings with federal, state, and local governments, including but not limited to providing ready access to information regarding government requirements which affect small businesses;

(2) Develop programs which will assist or otherwise encourage professional or business associations and other service organizations in the public sector to provide useful and needed services to small businesses;

(3) Arrange for and hold meetings, in cooperation with public schools, community colleges, colleges, universities, and other public and private educational programs to the extent practicable, which provide worthwhile training and dissemination of information beneficial to the state's small businesses;

(4) Assist small businesses in obtaining available technical and financial assistance and counsel;

(5) Coordinate with all other state agencies to foster participation of small businesses in providing services and materials to state agencies as follows:

(a) Provide a guide to businesses on the purchasing procedures and practices of state agencies, including a list of state employees responsible for such state purchases. The guide shall be updated at least every two years;

(b) Assist the state agencies in developing master bid lists which include small businesses;

(c) Secure information from all state agencies as to the size of businesses supplying goods and services to each state agency; and

(d) Assist each state agency so that a larger percentage of the goods and services purchased by each state agency can be supplied by small businesses; and

(6) Conduct research in the following areas:

(a) Identify business associations which represent small businesses and maintain an up to date list of such associations;

(b) Develop methods and practices to encourage prime contractors to let subcontracts to small businesses;

(c) Research methods to utilize small businesses for developing economically depressed areas or providing jobs for unemployed persons;

(d) Develop programs to be utilized by all state agencies to encourage the development of small businesses. The office shall coordinate these programs with the political subdivisions of the state; and

(e) Coordinate the office's activities with the federal small business administration, the small business committees of the two houses of the United States congress, and all other state or federal agencies formed for the purpose of aiding small businesses. [1977 1st ex.s. c 70 § 3.]

Severability—1977 1st ex.s. c 70: See note following RCW 43.31.915.

43.31.930 Office of small business—Report to legislature—Contents. Beginning with the forty-sixth regular legislative session in 1979, the office of small business shall provide a report every biennium not later than the first day of each regular legislative session to the standing commerce committee or the appropriate committee in both legislative houses as to the state of small businesses in this state. The report shall include, but not be limited to, the volume, type, size, and location of business being done by small businesses for goods and services furnished to state agencies. [1977 1st ex.s. c 70 § 4.]

Severability—1977 1st ex.s. c 70: See note following RCW 43.31.915.

43.31.935 Legislative review of RCW 43.31.915 through 43.31.935. RCW 43.31.915 through 43.31.935 shall be subject to review by the standing commerce committee or the appropriate standing committee in both legislative houses in the 1981 regular session of the legislature. Each standing committee shall vote to recommend to continue or repeal RCW 43.31.915 through 43.31.935 at that time. [1977 1st ex.s. c 70 § 5.]

Severability—1977 1st ex.s. c 70: See note following RCW 43.31.915.

Chapter 43.31A

ECONOMIC ASSISTANCE ACT OF 1972

Sections

43.31A.130 Investment projects—Definitions—Criteria.
43.31A.330 Records of accounts—Audits—Annual reports.

43.31A.130 Investment projects—Definitions—Criteria. As used in RCW 43.31A.140 through 43.31A.180:

(1) "Eligible investment project" shall mean construction of new buildings or major improvements to existing buildings and the machinery installed in such buildings

in the course of such construction or major improvements, when said buildings and machinery are used or are to be used for activities defined in RCW 82.04.120 (the definition of the term "to manufacture"): *Provided*, That an investment project undertaken by a business as defined in RCW 82.16.010(5) (an electrical utility) shall not be eligible: *Provided further*, That one or more of the following criteria must be met:

(a) The investment project is or will be located in an economic assistance area or special impact area;

(b) A minimum of twenty percent of the employees at the plant complex for which the deferral is requested shall be of a minority race;

(c) The plant complex shall be within an industry classification which is not currently a major employing industry in the county in which the plant complex is located. The industry classification of the plant complex shall be determined by the standard industrial classification as assigned by the department of employment security. The major employing industries in a county shall be the two manufacturing industries which employed the greatest number of persons on an annual average basis in the most recent calendar year for which such information is available from the department of employment security.

(2) "Buildings" shall mean and include only those structures used or to be used to house or shelter manufacturing activities. The term shall include plant offices and warehouses or other facilities for the storage of raw material or finished goods when such facilities are an essential or an integral part of a factory, mill, or manufacturing plant and such factory, mill, or manufacturing plant is used or to be used in the business of manufacture for sale or commercial or industrial use of an article, substance, or commodity. Where a building is used partly for manufacturing and partly for other purposes the applicable tax deferral shall be determined by apportionment of the costs of construction under such rules as the department of revenue shall provide;

(3) "Machinery" shall mean all industrial fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing operation;

(4) "Major improvement" shall mean the expansion, modernization, or renovation of existing buildings wherein the costs are in excess of twenty-five percent of the true and fair value of the plant complex prior to the improvement;

(5) "Plant complex" shall mean land, machinery, and buildings adapted to industrial use as a single functional or operational unit for the assembling, processing, or manufacturing of finished or partially finished products from raw materials or fabricated parts. [1977 1st ex.s. c 296 § 1; 1972 ex.s. c 117 § 13.]

43.31A.330 Records of accounts—Audits—Annual reports. The authority shall keep proper records of accounts and shall be subject to audit by the state auditor. An annual accounting of the condition of the industrial mortgage payment insurance revolving account shall be made. Annual reports on the activities of the authority shall be made by the chairman to the

governor and the legislature. [1977 c 75 § 55; 1972 ex.s. c 117 § 33.]

Chapter 43.33

FINANCE COMMITTEE—INVESTMENT ADVISORY COMMITTEE

Sections

43.33.050	Investment advisory committee—Created—Membership—Vacancies—Meetings—Compensation—Travel expenses.
43.33.070	Investment advisory committee—Powers and duties.
43.33.110	Securities—State treasurer may cause same to be registered in the name of a nominee.
43.33.120	Investments—Standard of judgment and care.
43.33.130	Reports of investment and bond management activities.

43.33.050 Investment advisory committee—Created—Membership—Vacancies—Meetings—Compensation—Travel expenses. There is hereby created the investment advisory committee to consist of eight members to be appointed as hereinafter provided:

(1) One person shall be appointed annually by the Washington public employees' retirement board. One person shall be appointed annually by the board of trustees of the Washington state teachers' retirement system. The original members appointed pursuant to this subsection shall serve for one year, measured from July 1 of the year in which the appointment is made.

(2) Five persons shall be appointed by the state finance committee, who shall be considered experienced and qualified in the field of investments. The original members appointed by the state finance committee shall serve as follows: One member shall serve a one-year term; one member shall serve for a term of two years; one member shall serve for a term of three years; and one member shall serve for a term of four years. All subsequent state finance committee appointees shall serve for terms of four years. All such appointive terms shall commence on July 1 of the year in which appointment is made.

(3) The state actuary appointed under RCW 44.44-.010 who shall serve for the period while holding the office of the state actuary.

No member during the term of his or her appointment or for two years thereafter shall have a financial interest in or be employed by any investment brokerage or mortgage servicing firm doing business with the state finance committee.

All vacancies shall be filled for the unexpired term. Each member shall hold office until his successor has been appointed and any member may be reappointed for additional terms.

The investment advisory committee shall meet at least quarterly at such times as it may fix.

Each member shall receive fifty dollars for each day or portion thereof spent discharging his official duties as a member of the advisory committee and travel expenses as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1977 1st ex.s. c 251 § 3; 1975-'76 2nd ex.s. c 34 § 112; 1973 1st ex.s. c 103 § 7.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Severability—1973 1st ex.s. c 103: See note following RCW 2.10.080.

43.33.070 Investment advisory committee—Powers and duties. In addition to its other powers and duties as may be prescribed by law, the investment advisory committee shall:

(1) Make recommendations as to general investment policies, practices, and procedures to the state finance committee and the director of retirement systems regarding those retirement funds for which the various retirement boards are designated trustees;

(2) Make recommendations as to general investment policies, practices, and procedures regarding all other investment funds to the state finance committee.

The director of retirement systems and the state finance committee shall make the final decision regarding the advice and recommendations submitted by the investment advisory committee. [1977 1st ex.s. c 251 § 4; 1975-'76 2nd ex.s. c 105 § 26; 1973 1st ex.s. c 103 § 9.]

Severability—1975-'76 2nd ex.s. c 105: See note following RCW 41.04.270.

Severability—1973 1st ex.s. c 103: See note following RCW 2.10.080.

43.33.110 Securities—State treasurer may cause same to be registered in the name of a nominee. The state treasurer may cause any securities in which the state finance committee deals to be registered in the name of a nominee without mention of any fiduciary relationship, except that adequate records shall be maintained to identify the actual owner of the security so registered. The securities so registered shall be held in the physical custody of the state treasurer or his or her designee or designees.

With respect to the securities, the nominee shall act only upon the order of the state treasurer who shall act only on the direction of the state finance committee. All rights to the dividends, interest, and sale proceeds from the securities and all voting rights of the securities shall be vested in the actual owners of the securities, and not in the nominee. [1977 1st ex.s. c 251 § 6.]

43.33.120 Investments—Standard of judgment and care. Any investments made by the state finance committee shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived. [1977 1st ex.s. c 251 § 11.]

43.33.130 Reports of investment and bond management activities. The state finance committee shall prepare written reports at least quarterly summarizing the investment and bond management activities of the finance committee, which reports shall be sent to the governor, to the senate ways and means committee, the

house appropriations committee, to members of the investment advisory committee, to all retirement boards, and other agencies having a direct financial interest in the investment of funds or issuance and sale of bonds by the committee, and to other persons on written request. [1977 1st ex.s. c 251 § 10.]

Chapter 43.41

DIRECTOR OF FINANCIAL MANAGEMENT

(Formerly: Director of program planning and fiscal management)

Sections	
43.41.035	Office of program planning and fiscal management redesignated office of financial management.
43.41.102	Director—Contract for collection and tabulation of census block statistics.
43.41.104	Settlement and payment of accounts—Duty to require.
43.41.106	Settlement and payment of accounts—Authority to require testimony and evidence.
43.41.108	Settlement and payment of accounts—"Chief fiscal officer of the executive branch" defined.
43.41.110	Powers and duties of office of program planning and fiscal management (as amended by 1977 1st ex.s. c 25).
43.41.110	Powers and duties of office of program planning and fiscal management (as amended by 1977 1st ex.s. c 110).

Development of definitions, criteria and procedures for the operating cost of instruction (state universities): RCW 28B.15.070.

43.41.035 Office of program planning and fiscal management redesignated office of financial management. From and after September 21, 1977, the office of program planning and fiscal management shall be known and designated as the office of financial management. [1977 1st ex.s. c 114 § 1.]

43.41.102 Director—Contract for collection and tabulation of census block statistics. Subject to a specific appropriation for that purpose, the director of the office of program planning and fiscal management is hereby authorized and directed to contract with the United States bureau of census for collection and tabulation of block statistics in any or all cities and towns. [1977 1st ex.s. c 128 § 5.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Severability—1977 1st ex.s. c 128: See note following RCW 29.04.040.

43.41.104 Settlement and payment of accounts—Duty to require. Upon receipt of information from the state auditor as provided in RCW 43.09.050(5) as now or hereafter amended, the chief fiscal officer of the executive branch shall require all persons who have received any moneys belonging to the state and have not accounted therefor, to settle their accounts and make payment thereof. [1977 1st ex.s. c 144 § 10.]

"Chief fiscal officer of the executive branch" defined: RCW 43.41.108.

43.41.106 Settlement and payment of accounts—Authority to require testimony and evidence. The chief fiscal officer of the executive branch may, in his discretion, require any person presenting an account for settlement to be sworn before him, and to answer, orally or in writing, as to any facts relating to it. [1977 1st ex.s. c 144 § 11.]

"Chief fiscal officer of the executive branch" defined: RCW 43.41.108.

43.41.108 Settlement and payment of accounts—"Chief fiscal officer of the executive branch" defined. The term "chief fiscal officer of the executive branch" means the director of the office of program planning and fiscal management or his statutory successor when such term is used in: RCW 4.92.040 as now or hereafter amended; RCW 4.92.100 as now or hereafter amended; RCW 4.92.110 as now or hereafter amended; RCW 29.13.047 as now or hereafter amended; RCW 29.64-.090 as now or hereafter amended; RCW 38.52.205 as now or hereafter amended; RCW 43.09.050 as now or hereafter amended; RCW 43.41.104; RCW 43.41.106; or RCW 77.12.280 as now or hereafter amended. [1977 1st ex.s. c 144 § 12.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

43.41.110 Powers and duties of office of program planning and fiscal management (as amended by 1977 1st ex.s. c 25). The office of program planning and fiscal management shall:

(1) Provide technical assistance to the governor and the legislature in identifying needs and in planning to meet those needs through state programs and a plan for expenditures.

(2) Perform the comprehensive planning functions and processes necessary or advisable for state program planning and development, preparation of the budget, inter-departmental and inter-governmental coordination and cooperation, and determination of state capital improvement requirements.

(3) Provide assistance and coordination to state agencies and departments in their preparation of plans and programs.

(4) Provide general coordination and review of plans in functional areas of state government as may be necessary for receipt of federal or state funds.

(5) Participate with other states or subdivisions thereof in interstate planning.

(6) Encourage educational and research programs that further planning and provide administrative and technical services therefor.

(7) Carry out the provisions of RCW 43.62.010 through 43.62.050 relating to the state census.

(8) Provide fiscal notes depicting the expected fiscal impact of proposed legislation in accordance with chapter 43.88A RCW. [1977 1st ex.s. c 25 § 6; 1969 ex.s. c 239 § 11.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

43.41.110 Powers and duties of office of program planning and fiscal management (as amended by 1977 1st ex.s. c 110). The office of program planning and fiscal management shall:

(1) Provide technical assistance to the governor and the legislature in identifying needs and in planning to meet those needs through state programs and a plan for expenditures.

(2) Perform the comprehensive planning functions and processes necessary or advisable for state program planning and development, preparation of the budget, inter-departmental and inter-governmental coordination and cooperation, and determination of state capital improvement requirements.

(3) Provide assistance and coordination to state agencies and departments in their preparation of plans and programs.

(4) Provide general coordination and review of plans in functional areas of state government as may be necessary for receipt of federal or state funds.

(5) Participate with other states or subdivisions thereof in interstate planning.

(6) Encourage educational and research programs that further planning and provide administrative and technical services therefor.

(7) Carry out the provisions of RCW 43.62.010 through 43.62.050 relating to the state census.

(8) Be the official state participant in the federal-state cooperative program for local population estimates and as such certify all city and county special censuses to be considered in the allocation of state and federal revenues.

(9) Be the official state center for processing and dissemination of federal decennial or quinquennial census data in cooperation with other state agencies.

(10) Be the official state agency certifying annexations, incorporations, or disincorporations to the United States bureau of the census.

(11) Review all United States bureau of the census population estimates used for federal revenue sharing purposes and provide a liaison for local governments with the United States bureau of the census in adjusting or correcting revenue sharing population estimates. [1977 1st ex.s. c 110 § 4; 1969 ex.s. c 239 § 11.]

Reviser's note: RCW 43.41.110 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Chapter 43.43

WASHINGTON STATE PATROL

Sections

43.43.310	Benefits exempt from taxation and legal process— Certain deductions authorized.
43.43.705	Receipt of data—Furnishing of information— Procedure—Definitions—Appeals.
43.43.710	Availability of information (as amended by 1977 1st ex.s. c 30).
43.43.710	Availability of information (as amended by 1977 1st ex.s. c 314).
43.43.730	Records—Inspection—Requests for purge or modification—Appeals.
43.43.810	Obtaining information by false pretenses—Unau- thorized use of information—Falsifying records—Penalty.

Inspection of railroad company passenger-carrying vehicles by state patrol: RCW 81.61.040.

43.43.310 Benefits exempt from taxation and legal process—Certain deductions authorized. The right of any person to a retirement allowance or optional retirement allowance under the provisions hereof and all moneys and investments and income thereof are exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other processes of law whatsoever and shall be unassignable except as herein specifically provided: *Provided*, That this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of members of the Washington state patrol or other public employees of the state of Washington.

Deductions made in the past from retirement benefits are hereby expressly recognized, ratified and affirmed. Future deductions may only be made in accordance with this section. [1977 1st ex.s. c 256 § 1; 1965 c 8 § 43.43-.310. Prior: 1951 c 140 § 8; 1947 c 250 § 20; Rem. Supp. 1947 § 6362-100.]

43.43.705 Receipt of data—Furnishing of information—Procedure—Definitions—Appeals. Upon the receipt of identification data from criminal justice agencies within this state, the section shall immediately cause the files to be examined and upon request shall promptly return to the contributor of such data a transcript of the record of previous arrests and dispositions of the persons described in the data submitted.

Upon application, the section shall furnish to criminal justice agencies a transcript of the criminal offender record information available pertaining to any person of whom the section has a record.

For the purposes of RCW 43.43.700 through 43.43-.800 the following words and phrases shall have the following meanings:

"Criminal offender record information" includes, and shall be restricted to identifying data and public record information recorded as the result of an arrest or other initiation of criminal proceedings and the consequent proceedings related thereto. "Criminal offender record information" shall not include intelligence, analytical, or investigative reports and files.

"Criminal justice agencies" are those public agencies within or outside the state which perform, as a principal function, activities directly relating to the apprehension, prosecution, adjudication or rehabilitation of criminal offenders.

Applications for information shall be by a data communications network used exclusively by criminal justice agencies or in writing and information applied for shall be used solely in the due administration of the criminal laws or for the purposes enumerated in RCW 43.43.760(3).

The section may refuse to furnish any information pertaining to the identification or history of any person or persons of whom it has a record, or other information in its files and records, to any applicant if the chief determines that the applicant has previously misused information furnished to such applicant by the section or the chief believes that the applicant will not use the information requested solely for the purpose of due administration of the criminal laws or for the purposes enumerated in RCW 43.43.760(3). The applicant may appeal such determination and denial of information to the advisory council created in RCW 43.43.785 and the council may direct that the section furnish such information to the applicant. [1977 1st ex.s. c 314 § 14; 1972 ex.s. c 152 § 2.]

43.43.710 Availability of information (as amended by 1977 1st ex.s. c 30). Information contained in the files and records of the section relative to the commission of any crime by any person shall be considered privileged and shall not be made public or disclosed for any personal purpose or in any civil court proceedings except upon a written order of the judge of a court wherein such civil proceedings are had. All information contained in the files of the section relative to criminal records and personal histories of persons arrested for the commission

of a crime shall be available to all criminal justice agencies and, for the sole purpose of investigating the cause of fires under RCW 48.48.060(2) where the cause is suspected to be arson, to the state fire marshal, upon the filing of an application as provided in RCW 43.43.705.

Although no application for information has been made to the section as provided in RCW 43.43.705, the section may transmit such information in the chief's discretion, to such agencies as are authorized by RCW 43.43.705 to make application for it. [1977 1st ex.s. c 30 § 1; 1972 ex.s. c 152 § 3.]

43.43.710 Availability of information (as amended by 1977 1st ex.s. c 314). Information contained in the files and records of the section relative to the commission of any crime by any person shall be considered privileged and shall not be made public or disclosed for any purpose except in accordance with chapter 10.97 RCW. [1977 1st ex.s. c 314 § 15; 1972 ex.s. c 152 § 3.]

Reviser's note: RCW 43.43.710 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

43.43.730 Records—Inspection—Requests for purge or modification—Appeals. (1) Any individual shall have the right to inspect criminal offender record information on file with the section which refers to him. If an individual believes such information to be inaccurate or incomplete, he may request the section to purge, modify or supplement it and to advise such persons or agencies who have received his record and whom the individual designates to modify it accordingly. Should the section decline to so act, or should the individual believe the section's decision to be otherwise unsatisfactory, the individual may appeal such decision to the superior court in the county in which he is resident, or the county from which the disputed record emanated or Thurston county. The court shall in such case conduct a de novo hearing, and may order such relief as it finds to be just and equitable.

(2) The section may prescribe reasonable hours and a place for inspection, and may impose such additional restrictions, including fingerprinting, as are reasonably necessary both to assure the record's security and to verify the identities of those who seek to inspect them: *Provided*, That the section may charge a reasonable fee for fingerprinting. [1977 1st ex.s. c 314 § 16; 1972 ex.s. c 152 § 7.]

43.43.810 Obtaining information by false pretenses—Unauthorized use of information—Falsifying records—Penalty. Any person who wilfully requests, obtains or seeks to obtain criminal offender record information under false pretenses, or who wilfully communicates or seeks to communicate criminal offender record information to any agency or person except in accordance with *this act, or any member, officer, employee or agent of the section, the council or any participating agency, who wilfully falsifies criminal offender record information, or any records relating thereto, shall for each such offense be guilty of a misdemeanor. [1977 1st ex.s. c 314 § 17; 1972 ex.s. c 152 § 23.]

***Reviser's note:** "this act" [1972 ex.s. c 152] consists of RCW 43.43.700 through 43.43.820, 43.43.910, and the repeal of RCW 43.43.520, 43.43.660, 43.89.020, and 72.50.120 through 72.50.170.

Chapter 43.49

COLUMBIA BASIN COMMISSION

Sections

43.49.070 Cooperation of state departments—Hearings.

43.49.070 Cooperation of state departments—Hearings. The records and data of all state officials and departments shall be available to the commission and its sections, and all officers and departments are directed to cooperate with the commission and its sections.

The commission may hold hearings and subpoena and serve compulsory process to compel the attendance of witnesses before it. [1977 c 75 § 56; 1965 c 8 § 43.49-.070. Prior: 1943 c 283 § 7; 1933 c 81 § 4; RRS § 3017-4.]

Chapter 43.51

PARKS AND RECREATION COMMISSION

Sections

43.51.040 Powers and duties—Mandatory (as amended by 1977 c 75).
 43.51.040 Powers and duties—Mandatory (as amended by 1977 1st ex.s. c 123).
 43.51.055 Senior citizen's pass—Disability pass—Eligibility—Expiration.
 43.51.350 Sun Lakes state park—"Vic Meyers Golf Course" designation—"Vic Meyers Lake" designation.
 43.51.355 Authority of commission to implement RCW 43.51.350.
 43.51.360 Hostels—Legislative declaration of intent.
 43.51.365 "Hostel" defined.
 43.51.370 Hostels—Authority of political subdivisions to establish.
 43.51.375 Hostels—Commission authorized to accept grants or moneys for the support thereof—Rules required.

PRESERVATION OF HISTORIC PROPERTIES

43.51.750 through 43.51.820 Repealed.

MOUNT SI CONSERVATION AREA

43.51.940 Legislative declaration.
 43.51.941 Repealed.
 43.51.942 "Mt. Si Conservation Area"—Created.
 43.51.943 Mt. Si Conservation Area—Management.
 43.51.944 Mt. Si Conservation area—Valuation of included lands—Reports.
 43.51.945 Eminent domain—Use prohibited.

WASHINGTON STATE YAKIMA RIVER CONSERVATION AREA

43.51.946 Legislative declaration.
 43.51.947 "Washington State Yakima river conservation area"—Created.
 43.51.948 Yakima river conservation area—Size prescribed.
 43.51.949 Yakima river conservation area—Authority of Yakima county commissioners.
 43.51.950 Yakima river conservation area—Land acquisition.
 43.51.951 Intent to preserve river wetlands in their natural state.
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43.51.956 Acquisition of real property, etc. of another agency by Yakima county commissioners—Agency approval required.

Scenic rivers system: Chapter 79.72 RCW.

43.51.040 Powers and duties—Mandatory (as amended by 1977 c 75). The commission shall:

(1) Have the care, charge, control, and supervision of all parks and parkways acquired or set aside by the state for park or parkway purposes.

(2) Adopt, promulgate, issue, and enforce rules and regulations pertaining to the use, care, and administration of state parks and parkways, which shall become effective ten days after adoption. The commission shall cause a copy of the rules and regulations to be kept posted in a conspicuous place in every state park to which they are applicable, but failure to post or keep any rule or regulation posted shall be no defense to any prosecution for the violation thereof.

(3) Permit the use of state parks and parkways by the public under such rules and regulations as shall be prescribed.

(4) Clear, drain, grade, seed, and otherwise improve or beautify parks and parkways, and erect structures, buildings, fireplaces, and comfort stations and build and maintain paths, trails, and roadways through or on parks and parkways.

(5) Grant concessions in state parks and parkways, upon such rentals, fees, or percentage of income or profits and for such terms, in no event longer than twenty years, and upon such conditions as shall be approved by the commission: *Provided*, That the commission may, by unanimous consent of its members grant such concessions for terms not to exceed forty years in state parks and parkways lying within the Columbia basin area in Douglas, Grant, Franklin, and Walla Walla counties and within Mount Spokane state park. No concession shall be granted which will prevent the public from having free access to the scenic attractions of any park or parkway.

(6) Employ such assistance as it deems necessary.

(7) By majority vote of its authorized membership select and purchase or obtain options upon, lease, or otherwise acquire for and in the name of the state such tracts of land, including shore and tide lands, for park and parkway purposes as it deems proper. If the commission cannot acquire any tract at a price it deems reasonable, it may, by majority vote of its authorized membership, obtain title thereto, or any part thereof, by condemnation proceedings conducted by the attorney general as provided for the condemnation of rights of way for state highways. Option agreements executed under authority of this subdivision shall be valid only if:

(a) The cost of the option agreement does not exceed one dollar; and

(b) Moneys used for the purchase of the option agreement are from (i) funds appropriated therefor, or (ii) funds appropriated for undesignated land acquisitions, or (iii) funds deemed by the commission to be in excess of the amount necessary for the purposes for which they were appropriated; and

(c) The maximum amount payable for the property upon exercise of the option does not exceed the appraised value of the property.

(8) Cooperate with the United States, or any county or city of this state, in any matter pertaining to the acquisition for park and parkway purposes of any area not within the limits of any city, and in the care, control, or supervision of any park or parkway, and enter into contracts in writing to that end. All parks or parkways, to the acquisition or improvement of which the state shall have contributed or in whose care, control, or supervision the state shall participate pursuant to the provisions of this section, shall be governed by the provisions hereof. [1977 c 75 § 57; 1967 ex.s. c 90 § 1; 1965 c 8 § 43.51.040. Prior: 1959 c 317 § 1; 1955 c 391 § 1; 1929 c 148 § 1; 1923 c 157 § 1; 1921 c 149 § 2; RRS § 10942.]

43.51.040 Powers and duties—Mandatory (as amended by 1977 1st ex.s. c 123). The commission shall:

(1) Have the care, charge, control, and supervision of all parks and parkways acquired or set aside by the state for park or parkway purposes.

(2) Adopt, promulgate, issue, and enforce rules and regulations pertaining to the use, care, and administration of state parks and parkways, which shall become effective ten days after adoption. The commission shall cause a copy of the rules and regulations to be kept posted in a conspicuous place in every state park to which they are applicable, but failure to post or keep any rule or regulation posted shall be no defense to any prosecution for the violation thereof.

(3) Permit the use of state parks and parkways by the public under such rules and regulations as shall be prescribed.

(4) Clear, drain, grade, seed, and otherwise improve or beautify parks and parkways, and erect structures, buildings, fireplaces, and comfort stations and build and maintain paths, trails, and roadways through or on parks and parkways.

(5) Grant concessions or leases in state parks and parkways, upon such rentals, fees, or percentage of income or profits and for such terms, in no event longer than forty years, and upon such conditions as shall be approved by the commission: *Provided*, That leases exceeding a twenty-year term shall require a unanimous vote of the commission: *Provided further*, That if, during the term of any concession or lease, it is the opinion of the commission that it would be in the best interest of the state, the commission may, with the consent of the concessionaire or lessee, alter and amend the terms and conditions of such concession or lease: *Provided further*, That television station leases shall be subject to the provisions of RCW 43.51.063, only: *Provided further*, That the rates of such concessions or leases shall be renegotiated at five-year intervals. No concession shall be granted which will prevent the public from having free access to the scenic attractions of any park or parkway.

(6) Employ such assistance as it deems necessary.

(7) By majority vote of its authorized membership select and purchase or obtain options upon, lease, or otherwise acquire for and in the name of the state such tracts of land, including shore and tide lands, for park and parkway purposes as it deems proper. If the commission cannot acquire any tract at a price it deems reasonable, it may, by majority vote of its authorized membership, obtain title thereto, or any part thereof, by condemnation proceedings conducted by the attorney general as provided for the condemnation of rights of way for state highways. Option agreements executed under authority of this subdivision shall be valid only if:

(a) The cost of the option agreement does not exceed one dollar; and

(b) Moneys used for the purchase of the option agreement are from (i) funds appropriated therefor, or (ii) funds appropriated for undesignated land acquisitions, or (iii) funds deemed by the commission to be in excess of the amount necessary for the purposes for which they were appropriated; and

(c) The maximum amount payable for the property upon exercise of the option does not exceed the appraised value of the property.

(8) Cooperate with the United States, or any county or city of this state, in any matter pertaining to the acquisition for park and parkway purposes of any area not within the limits of any city, and in the care, control, or supervision of any park or parkway, and enter into contracts in writing to that end. All parks or parkways, to the acquisition or improvement of which the state shall have contributed or in whose care, control, or supervision the state shall participate pursuant to the provisions of this section, shall be governed by the provisions hereof.

(9) Investigate and report to the governor on or before the first day of January next preceding the regular session of the legislature regarding any proposed park or parkway, and make recommendations respecting other regions in the state desirable for state park or parkway purposes. [1977 1st ex.s. c 123 § 1; 1967 ex.s. c 90 § 1; 1965 c 8 § 43.51.040. Prior: 1959 c 317 § 1; 1955 c 391 § 1; 1929 c 148 § 1; 1923 c 157 § 1; 1921 c 149 § 2; RRS § 10942.]

Reviser's note: RCW 43.51.040 was amended twice during the 1977 regular and first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Inspection of recreational devices: Chapter 70.88 RCW.

43.51.055 Senior citizen's pass—Disability pass—Eligibility—Expiration. (1) The commission shall grant to any person who meets the eligibility requirements specified in this section a senior citizen's pass which shall (a) entitle such person, and members of his camping unit, to a fifty percent reduction in the campsite rental fee prescribed by the commission, and (b) entitle such person to free admission to any state park.

(2) The commission shall grant a senior citizen's pass to any person who applies for the same and who meets the following requirements:

(a) The person is at least sixty-two years of age; and

(b) The person is a domiciliary of the state of Washington and meets reasonable residency requirements prescribed by the commission; and

(c) The person and his or her spouse have a combined income which would qualify the person for a property tax exemption pursuant to RCW 84.36.381, as now law or hereafter amended. The financial eligibility requirements of this subparagraph (c) shall apply regardless of whether the applicant for a senior citizen's pass owns taxable property or has obtained or applied for such property tax exemption.

(3) Each senior citizen's pass granted pursuant to this section shall, unless renewed, expire on January 1 of the next year following the year in which it was issued. Any application for renewal of a senior citizen's pass shall, for purposes of the financial eligibility requirements of this section, be treated as an original application.

(4) Any resident of Washington who is disabled as defined by the social security administration and who receives social security benefits for that disability or who is entitled to benefits for permanent disability under RCW 71.20.015 and 72.33.020 due to unemployability full time at the minimum wage shall be entitled to receive, regardless of age and upon making application therefor, a disability pass at no cost to the holder. The pass shall (a) entitle such person, and members of his camping unit, to a fifty percent reduction in the campsite rental fee prescribed by the commission, and (b) entitle such person to free admission to any state park.

(5) All passes issued pursuant to this section shall be valid at all parks any time during the year: *Provided*, That the pass shall not be valid for admission to concessionaire operated facilities.

(6) This section shall not affect or otherwise impair the power of the commission to continue or discontinue any other programs it has adopted for senior citizens.

(7) The commission shall adopt such rules and regulations as it finds appropriate for the administration of this section. Among other things, such rules and regulations shall prescribe a definition of "camping unit" which will authorize a reasonable number of persons traveling with the person having a senior citizen's pass to stay at the campsite rented by such person, a minimum Washington residency requirement for applicants for a senior citizen's pass and an application form to be completed by applicants for a senior citizen's pass. [1977 1st ex.s. c 330 § 1.]

43.51.350 Sun Lakes state park—"Vic Meyers Golf Course" designation—"Vic Meyers Lake" designation. The legislature hereby names the golf course located at Sun Lakes State Park the "Vic Meyers Golf Course", and Rainbow Lake shall be re-named "Vic Meyers Lake". The state shall provide and install a proper marker in a suitable location in the main activity area of the park which will set forth the key role Victor Aloysius Meyers had in the development of Sun Lakes State Park and the important part he had for many

years in the political and governmental history of the state. In addition, the name hereby established for the golf course shall be prominently displayed at the golf course club house.

The legislature finds it appropriate to so honor Victor Aloysius Meyers for his long and dedicated service to the people of this state. [1977 1st ex.s. c 266 § 1.]

43.51.355 Authority of commission to implement RCW 43.51.350. The state parks and recreation commission is directed to do all things necessary to carry out the provisions of RCW 43.51.350 and 43.51.355. [1977 1st ex.s. c 266 § 2.]

43.51.360 Hostels—Legislative declaration of intent. The legislature finds that there is a need for hostels in the state for the safety and welfare of transient persons with limited resources. It is the intent of RCW 43.51.360 through 43.51.370 that such facilities be established using locally donated structures. It is the further intent of RCW 43.51.360 through 43.51.370 that the state dispense any available federal or other moneys for such related projects and provide assistance where possible. [1977 1st ex.s. c 281 § 1.]

43.51.365 "Hostel" defined. For purposes of *this chapter, "hostel" means a simple basic structure that serves as a safe, low-cost accommodation for mobile people of all ages from this country and abroad. [1977 1st ex.s. c 281 § 2.]

***Reviser's note:** "this chapter" apparently refers to RCW 43.51.360 through 43.51.375.

43.51.370 Hostels—Authority of political subdivisions to establish. Any political subdivision of the state is authorized to establish hostels within its jurisdiction. The facilities and services shall include, but not be limited to:

- (1) Short term sleeping accommodations including adequate restroom and bathing facilities; and
- (2) Information and referral services, including, but not limited to availability of employment and health services.

Details of operations and regulations, including the establishment of appropriate fees to recover actual operating and maintenance costs, shall be within the discretion of the operating authority: *Provided*, That the consumption of alcoholic beverages or the possession or use of a controlled substance in violation of chapter 69.50 RCW shall be prohibited. [1977 1st ex.s. c 281 § 3.]

43.51.375 Hostels—Commission authorized to accept grants or moneys for the support thereof—Rules required. The parks and recreation commission is authorized to accept grants or moneys from any federal or private source for support of hostels. The commission at its discretion is directed to apportion and transfer any such moneys to contracting agencies or political subdivisions which operate hostels: *Provided*, That the commission shall establish rules and regulations for the operation of hostels which are substantially similar to

the operating standards and customs established by the American Youth Hostels Incorporated. [1977 1st ex.s. c 281 § 4.]

PRESERVATION OF HISTORIC PROPERTIES

43.51.750 through 43.51.820 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

MOUNT SI CONSERVATION AREA

43.51.940 Legislative declaration. Mt. Si and Little Si in King county offer unique scenic, natural, and geological features which can be viewed from the I-90 highway. They also afford outstanding recreational opportunities enjoyed by the citizens of this state and tourists alike. The legislature recognizes the importance of guarding portions of this area from those types of development which would permanently alter the area's natural form and beauty. It further recognizes the necessity of setting forth procedures to manage the area, to enhance the opportunities afforded the state's citizens, one-half of whom live within one-half hour driving time of Mt. Si, and to safeguard to the extent possible the scenic, natural, geological, game habitat, and recreational values therein, and to safeguard and promote the upper Snoqualmie River valley's economy in which the recreational use of Mt. Si plays a pivotal role. Therefore, the legislature declares this area to be of state-wide significance for the foregoing purposes to be enhanced and safeguarded in accordance with the procedures set forth in *this 1977 amendatory act. [1977 1st ex.s. c 306 § 1; 1975-'76 2nd ex.s. c 88 § 1.]

***Reviser's note:** "this 1977 amendatory act" consists of RCW 43.51.942 through 43.51.945, the repeal of RCW 43.51.941, and the 1977 amendment to RCW 43.51.940.

Interagency committee for outdoor recreation—Budget consideration: "The interagency committee for outdoor recreation is directed to consider the inclusion of an amount not to exceed two million seven hundred fifty thousand dollars for purposes of this 1977 amendatory act in its 1979-81 biennium budget request: *Provided*, That such attendant expenses of determining fair market value as described in RCW 43.51.944 shall be considered an eligible project acquisition cost." [1977 1st ex.s. c 306 § 5.]

Appropriation—1977 1st ex.s. c 306: "There is appropriated to the parks and recreation commission from the general fund, the sum of thirty-five thousand dollars, to be used exclusively for the purpose of accomplishing appraisals under this 1977 amendatory act, or so much thereof as may be necessary, and to the department of natural resources from the general fund, the sum of six thousand five hundred dollars, or so much thereof as may be necessary, to carry out the purposes of RCW 43.51.944." [1977 1st ex.s. c 306 § 9.]

The foregoing annotations apply to RCW 43.51.942 through 43.51.945, the repeal of RCW 43.51.941, and the 1977 amendment to RCW 43.51.940.

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

43.51.942 "Mt. Si Conservation Area"—Created. There is hereby created a "Mt. Si Conservation Area" to include approximately twenty-five hundred acres of state, United States government, and privately owned lands within Sections 25, 26, 35, and 36, Township 24

North, Range 8 East, W.M., and Sections 2, 3, 10, 11, and 12 of Township 23 North, Range 8 East, W.M., as identified for inclusion in the conservation area and described more specifically by the Mt. Si citizen advisory subcommittee in their published report of December 6, 1976, to the Washington state department of natural resources and the Washington state parks and recreation commission as contained in the report filed by those agencies to the house and senate committees on parks and recreation, filed December 1976. [1977 1st ex.s. c 306 § 2.]

43.51.943 Mt. Si Conservation Area—Management. The state department of natural resources and the state parks and recreation commission have joined together in excellent cooperation in the conducting of this study along with the citizen advisory subcommittee and have joined together in cooperation with the state department of game to accomplish other projects of multidisciplinary concern, and because it may be in the best interests of the state to continue such cooperation, the state parks and recreation commission, the department of natural resources, and the department of game are hereby directed to consider both short and long term objectives, the expertise of each agency's staff, and alternatives such as reasonably may be expected to safeguard the conservation area's values as described in RCW 43.51.940 giving due regard to efficiency and economy of management: *Provided*, That the interests conveyed to or by the state agencies identified in this section shall be managed by the department of natural resources until such time as the state parks and recreation commission or other public agency is managing public recreation areas and facilities located in such close proximity to the conservation area described in RCW 43.51.942 so as to make combined management of those areas and facilities and transfer of management of the conservation area more efficient and economical than continued management by the department of natural resources. At that time the department of natural resources is directed to negotiate with the appropriate public agency for the transfer of those management responsibilities for the interests obtained within the conservation area under *this 1977 amendatory act: *Provided further*, That the state agencies identified in this section may, by mutual agreement, undertake management of portions of the conservation area as they may from time to time determine in accordance with those rules and regulations established for natural area preserves under chapter 79.70 RCW, for natural and conservation areas under present WAC 352-16-020(3) and (6), and under chapter 77.12 RCW. [1977 1st ex.s. c 306 § 3.]

*Reviser's note: "this 1977 amendatory act" see note following RCW 43.51.940.

43.51.944 Mt. Si Conservation area—Valuation of included lands—Reports. (1) The full market value for department of natural resources' managed trust lands or interest therein within the conservation area shall be determined by the department of natural resources for any lands or interests to be dedicated or

leased as provided herein. The department of natural resources shall determine the value of dedicating such lands or interests in lands as it may determine to be necessary to carry out the purposes of *this 1977 amendatory act either by execution of fifty-five year scenic or development easements or by execution of fifty-five year leases, including such conditions as may be necessary to carry out the purposes of *this 1977 amendatory act. Any lease issued pursuant to *this 1977 amendatory act may be subject to renewal under the provisions of RCW 79.01.276 as presently existing or hereafter amended. Nothing in *this 1977 amendatory act shall be deemed to alter or affect normal management on lands owned by the state for which no dedication by easement or lease has been made and it is further recognized that no restrictions on management of such lands shall be required unless the applicable trust relating to such lands shall have been compensated.

The completed report of the cost of obtaining the desired interest in these lands shall be presented by the department of natural resources to the interagency committee for outdoor recreation and a summary of the report to the senate and house committees on parks and recreation by December 31, 1978.

(2) The parks and recreation commission shall appraise all lands except those identified in subsection (1) of this section to establish fair market fee title value of the interests therein. The parks and recreation commission shall present to the interagency committee for outdoor recreation the completed report of the cost of obtaining the desired interest in such lands, and a summary of the report to the senate and house committees on parks and recreation by December 31, 1978. [1977 1st ex.s. c 306 § 4.]

*Reviser's note: "this 1977 amendatory act" see note following RCW 43.51.940.

43.51.945 Eminent domain—Use prohibited. No property or interest in property shall be acquired for the purpose of *this 1977 amendatory act by the exercise of the power of eminent domain. [1977 1st ex.s. c 306 § 6.]

*Reviser's note: "this 1977 amendatory act" see note following RCW 43.51.940.

WASHINGTON STATE YAKIMA RIVER CONSERVATION AREA

43.51.946 Legislative declaration. It is the intent of RCW 43.51.946 through 43.51.956 to establish and recognize the Yakima river corridor from Selah Gap (Yakima Ridge) to Union Gap (Rattlesnake Hills) as a uniquely valuable recreation, conservation, and scenic resource in the state of Washington. [1977 1st ex.s. c 75 § 1.]

43.51.947 "Washington State Yakima river conservation area"—Created. There is hereby created an area to be known as the "Washington State Yakima river conservation area". This area designation may be used as a common reference by all state and local agencies, municipalities, and federal agencies. [1977 1st ex.s. c 75 § 3.]

43.51.948 Yakima river conservation area—Size prescribed. For the purposes of RCW 43.51.946 through 43.51.956, the Yakima river conservation area is to contain no more than the area delineated in appendix D on pages D-3, D-4, D-6, D-7, D-9, and D-10 of the report entitled "The Yakima River Regional Greenway" which resulted from the Yakima river study authorized in section 170, chapter 269, Laws of 1975, first extraordinary session. [1977 1st ex.s. c 75 § 2.]

43.51.949 Yakima river conservation area—Authority of Yakima county commissioners. The Yakima county commissioners are authorized to coordinate the acquisition, development, and operation of the Yakima river conservation area in accordance with the purposes of RCW 43.51.946 through 43.51.956 and in cooperation with public parks, conservation and resource managing agencies. [1977 1st ex.s. c 75 § 4.]

43.51.950 Yakima river conservation area—Land acquisition. The Yakima county commissioners are authorized to acquire such real property, easements or rights in river-related lands in the Yakima river conservation area, together with such real property, easements, and rights as are necessary for such conservation and parks purposes in any manner authorized by law for the acquisition of lands for conservation, parks and parkway purposes: *Provided*, That only the Yakima county commissioners shall have the power of eminent domain for the purposes of this chapter. [1977 1st ex.s. c 75 § 5.]

43.51.951 Intent to preserve river wetlands in their natural state. Except for such property as is necessary or suitable for the development of recreational areas and their related facilities, it is the intent of this section that such property shall be acquired to preserve, as much as possible, the river wetlands in their natural state. [1977 1st ex.s. c 75 § 6.]

43.51.952 Yakima river conservation area—Consultation between commission and Yakima county commissioners. The Washington state parks and recreation commission is directed to consult with the Yakima county commissioners in the acquisition, development, and operation of the Yakima river conservation area in accordance with the purposes of RCW 43.51.946 through 43.51.956 and the Yakima river study authorized in section 170, chapter 269, Laws of 1975, first extraordinary session. [1977 1st ex.s. c 75 § 7.]

43.51.953 Yakima river conservation area—Interagency committee for outdoor recreation directed to assist Yakima county commissioners. The interagency committee for outdoor recreation is directed to assist the Yakima county commissioners in obtaining state, federal, and private funding for the acquisition, development, and operation of the Yakima river conservation area. [1977 1st ex.s. c 75 § 8.]

43.51.954 County or city zoning and/or permitted land uses not affected. Nothing herein shall be construed as affecting nor being in conflict with existing county or

city zoning and/or permitted land uses and the right to develop, build or expand existing uses in accordance with the said zoning or permitted land uses within the Yakima river conservation area. [1977 1st ex.s. c 75 § 9.]

43.51.955 Department of game—Powers, duties, and authority—No hunting in any state park. Nothing in RCW 43.51.946 through 43.51.956 shall be construed to interfere with the powers, duties, and authority of the state department of game or the state game commission to regulate, manage, conserve, and provide for the harvest of wildlife within such area: *Provided, however*, That no hunting shall be permitted in any state park. [1977 1st ex.s. c 75 § 10.]

43.51.956 Acquisition of real property, etc. of another agency by Yakima county commissioners—Agency approval required. Nothing herein shall be construed as authorizing or directing the Yakima county commissioners to acquire any real property, easements, or rights in the Yakima river conservation area which are now held by any other agency without the approval of that agency. [1977 1st ex.s. c 75 § 11.]

Chapter 43.51A

OFFICE OF ARCHAEOLOGY AND HISTORIC PRESERVATION

Sections

43.51A.010	Legislative declaration.
43.51A.020	Definitions.
43.51A.030	Office of archaeology and historic preservation established—Certain powers, duties, and functions transferred from state parks and recreation commission.
43.51A.040	Transfer of property and funds from state parks and recreation commission to office of archaeology and historic preservation.
43.51A.050	Rules and regulations, pending business, contracts, of functions transferred, to be continued and acted upon—Savings.
43.51A.060	Preservation officer—Appointed by governor—Qualifications.
43.51A.070	Preservation officer—Personnel.
43.51A.080	Preservation officer—Additional powers and duties.
43.51A.090	Preservation officer empowered to maintain and administer appropriated funds and to receive, administer, and disburse gifts, grants, and endowments from private sources.
43.51A.100	Apportionment of grants.
43.51A.110	Advisory council on historic preservation established.
43.51A.120	Advisory council—Duties.
43.51A.130	State historical societies—Directors to be members of advisory council—Travel expenses.
43.51A.140	Utilization of facilities and support of office of governor.

43.51A.010 Legislative declaration. The legislature hereby finds that the promotion, enhancement, perpetuation, and use of structures, sites, districts, buildings, and objects of historic, archaeological, architectural, and cultural significance is desirable in the interest of the public pride and general welfare of the people of the state; and the legislature further finds that the economic, cultural, and aesthetic standing of the state can be maintained and enhanced by protecting the heritage of

the state and by preventing the destruction or defacement of these assets; therefore, it is hereby declared by the legislature to be the public policy and in the public interest of the state to designate, preserve, protect, enhance, and perpetuate those structures, sites, districts, buildings, and objects which reflect outstanding elements of the state's historic, archaeological, architectural, or cultural heritage, for the inspiration and enrichment of the citizens of the state. [1977 1st ex.s. c 195 § 1.]

Severability—1977 1st ex.s. c 195: "If any provision of this 1977 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." [1977 1st ex.s. c 195 § 20.] This annotation applies to chapter 43.51A RCW, the 1977 amendments to RCW 27.53.020, 27.53.030, 27.53.060, 27.53.080, and 27.53.090, and to the repeal of RCW 27.53.050, 43.51.750, 43.51.760, 43.51.770, 43.51.780, 43.51.790, 43.51.800, 43.51.810, and 43.51.820.

43.51A.020 Definitions. Unless the context clearly requires otherwise, the definitions contained in this section shall apply throughout this chapter.

(1) "Project" means programs leading to the preservation for public benefit of historical properties, whether by state and local governments or other public bodies, or private organizations or individuals, including the acquisition of title or interests in, and the development of, any district, site, building, structure, or object that is significant in American and Washington state history, architecture, archaeology, or culture, and property used in connection therewith, or for its development.

(2) "Historic preservation" includes the protection, rehabilitation, restoration, identification, scientific excavation, and reconstruction of districts, sites, buildings, structures, and objects significant in American and Washington state history, architecture, archaeology, or culture.

(3) "Preservation officer" means the state historic preservation officer as provided for in RCW 43.51A.060, as now or hereafter amended.

(4) "Office" means the office of archaeology and historic preservation as created in RCW 43.51A.030, as now or hereafter amended.

(5) "Department" means the department of parks and recreation.

(6) "Federal act" means the national historic preservation act of 1966 (Public Law 89-655; 80 Stat. 915).

(7) "Council" means the advisory council on historic preservation. [1977 1st ex.s. c 195 § 2.]

43.51A.030 Office of archaeology and historic preservation established—Certain powers, duties, and functions transferred from state parks and recreation commission. There is hereby established the office of archaeology and historic preservation. All powers, duties, and functions relating to the office vested in the parks and recreation commission and the director of parks and recreation are transferred to the office. [1977 1st ex.s. c 195 § 3.]

43.51A.040 Transfer of property and funds from state parks and recreation commission to office of

archaeology and historic preservation. Prior to July 1, 1977:

(1) All reports, documents, surveys, books, records, files, and papers or other writings in the possession of the Washington state parks and recreation commission and pertaining to the functions affected by *this 1977 amendatory act, shall be delivered to the custody of the preservation officer; and

(2) All funds, credits, appropriations, or other assets held in connection with the functions affected and transferred by *this 1977 amendatory act shall be transferred to or assigned to the office: *Provided*, That whenever any question arises as to the transfer of any funds, including unexpended balances within any accounts, the director of program planning and fiscal management, or the director's designee, shall make a determination as to the proper allocation and certify the same to the concerned state agencies. If apportionments of budgeted funds are required because of the transfers authorized, the director of program planning and fiscal management shall certify such apportionments to the agencies affected, the state auditor, and the state treasurer. Each agency shall make the appropriate transfer and adjustments in funds and appropriation accounts in accordance with such certification. [1977 1st ex.s. c 195 § 17.]

***Reviser's note:** "this 1977 amendatory act" consists of chapter 43.51A RCW, the 1977 amendments to RCW 27.53.020, 27.53.030, 27.53.060, 27.53.080, and 27.53.090, and to the repeal of RCW 27.53.050, 43.51.750, 43.51.760, 43.51.770, 43.51.780, 43.51.790, 43.51.800, 43.51.810, and 43.51.820.

Reviser's note: "director of program planning and fiscal management" redesignated as "director of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

43.51A.050 Rules and regulations, pending business, contracts, of functions transferred, to be continued and acted upon—Savings. Nothing in *this 1977 amendatory act shall affect any existing rights acquired under the sections amended herein except as to the governmental agencies referred to and their officials and employees; nor shall any actions, activities, or proceedings validated thereunder, any civil or criminal proceedings instituted thereunder, or any rule, regulation, or order promulgated thereunder be affected. The transfer of powers, duties, and functions as provided herein shall not affect the validity of any act performed by the Washington state parks and recreation commission or any officer or employee thereof prior to September 21, 1977. Any action pending before the Washington state parks and recreation commission at the time of transfer and pertaining to matters transferred and affected by *this 1977 amendatory act shall be continued to be acted upon by the office. All existing contracts and obligations pertaining to the functions herein transferred shall remain in full force and effect and shall be performed by the office. [1977 1st ex.s. c 195 § 18.]

***Reviser's note:** "this 1977 amendatory act" see note following RCW 43.51A.040.

43.51A.060 Preservation officer—Appointed by governor—Qualifications. The governor shall appoint the preservation officer, with the consent of the senate, and set the salary for the position. The preservation

officer shall have a background in program administration, an active involvement in historic preservation, and a knowledge of the national, state, and local preservation programs as they affect the state of Washington. [1977 1st ex.s. c 195 § 4.]

43.51A.070 Preservation officer—Personnel. The preservation officer shall employ such personnel and prescribe their duties as may be necessary to implement the purposes of this chapter. In addition to the preservation officer, there shall be a chief of archaeology and historic preservation, and a minimum professional staff consisting of an architect, archaeologist, historian, and architectural historian shall be employed to meet the federal requirements for funding of the preservation program. The preservation officer shall delegate to the professional staff such functions, powers, and duties necessary to implement the purposes of this chapter. All employees presently employed exclusively or principally in the office shall remain employees subject to the discretion of the preservation officer. All employees shall be governed by the provisions of chapter 41.06 RCW. [1977 1st ex.s. c 195 § 5.]

43.51A.080 Preservation officer—Additional powers and duties. The preservation officer shall supervise and administer the activities of the office. The preservation officer is authorized:

(1) To promulgate and maintain a state register of districts, sites, buildings, structures, and objects significant in American or Washington state history, architecture, archaeology, and culture, and to prepare comprehensive state-wide historic surveys and plans and research and evaluation of surveyed resources for the preparation of nominations to the state and national registers of historic places, in accordance with criteria approved by the advisory council established pursuant to RCW 43.51A.110. The nominations shall comply with any standards and regulations promulgated by the United States secretary of the interior for the preservation, acquisition, and development of such properties.

(2) To establish a program of matching grants-in-aid to public agencies, public or private organizations, or individuals for projects having as their purpose the preservation for public benefit of properties that are significant in American or Washington state history, architecture, archaeology, and culture.

(3) To promote historic preservation efforts throughout the state, including private efforts and those of city, county, and state agencies.

(4) To enhance the effectiveness of the state preservation program through the initiation of legislation, the use of varied funding sources, the creation of special purpose programs, and contact with state, county, and city officials, civic groups, and professionals.

(5) To consult with the governor and the legislature on issues relating to the conservation of the man-made environment and their impact on the well-being of the state and its citizens. The office shall submit periodic reports of its activities to the governor and the legislature.

(6) To adopt such rules, in accordance with chapter 34.04 RCW, as are necessary to carry out the provisions of *this 1977 amendatory act. [1977 1st ex.s. c 195 § 6.]

*Reviser's note: "this 1977 amendatory act" see note following RCW 43.51A.040.

43.51A.090 Preservation officer empowered to maintain and administer appropriated funds and to receive, administer, and disburse gifts, grants, and endowments from private sources. The preservation officer is empowered to (1) maintain and administer all funds appropriated by the legislature to the office for the purpose of carrying out the duties, functions, and responsibilities of the office under both state and federal law, and (2) to receive, administer, and disburse such gifts, grants, and endowments from private sources as may be made from time to time in trust or otherwise for the purposes of *this 1977 amendatory act or the federal act, as now or hereafter amended. [1977 1st ex.s. c 195 § 7.]

*Reviser's note: "this 1977 amendatory act" see note following RCW 43.51A.040.

43.51A.100 Apportionment of grants. The amounts made available for grants to the public agencies, public or private organizations, or individuals for projects for each fiscal year shall be apportioned among program applicants by the preservation officer in accordance with needs as contained in state-wide archaeology and historic preservation plans developed by the office and approved by the governor. [1977 1st ex.s. c 195 § 8.]

43.51A.110 Advisory council on historic preservation established. (1) There is hereby established an advisory council on historic preservation, which shall be composed of nine members appointed by the governor as follows:

(a) The director of a state historical society or the director's designee to be selected from (i) the director of the Washington state historical society, (ii) the director of the Eastern Washington state historical society, and (iii) the director of the state capitol historical society, to each serve on the council for one year on a rotating basis, the order of rotation to be determined by the governor;

(b) Six members of the public who are interested and experienced in matters to be considered by the council including the fields of history, architecture, and archaeology;

(c) The director of the Washington archaeological research center or the director's designee; and

(d) A native American.

(2) Each member of the council appointed under subsection (1)(b) and (d) of this section shall serve a four year term: *Provided*, That those members first appointed shall serve for terms of from one to four years as designated by the governor at the time of appointment, it being the purpose of this subsection to assure staggered terms of office.

(3) A vacancy in the council shall not affect its powers, but shall be filled in the same manner as the original appointment for the balance of the unexpired term.

(4) The chairperson of the council shall be designated by the governor.

(5) Five members of the council shall constitute a quorum.

(6) The council shall cease to exist on June 30, 1982, unless extended by law for an additional fixed period of time.

(7) The office shall provide administrative and financial service to the council. [1977 1st ex.s. c 195 § 9.]

43.51A.120 Advisory council—Duties. The council shall:

(1) Advise the governor and the office on matters relating to historic preservation; recommend measures to coordinate activities of state and local agencies, private institutions, and individuals relating to historic preservation; and advise on the dissemination of information pertaining to such activities;

(2) Review and recommend nominations for the state and national registers of historic places to the preservation officer;

(3) Encourage public interest and participation in historic preservation;

(4) Provide advice and assistance to local governments in drafting ordinances relating to historic preservation;

(5) Encourage, in cooperation with appropriate public and private agencies and institutions, training and education in the field of historic preservation; and

(6) Perform the duties of the state review body as may be required by law so long as those duties do not exceed the limitations established by *this 1977 amendatory act. [1977 1st ex.s. c 195 § 10.]

***Reviser's note:** "this 1977 amendatory act" see note following RCW 43.51A.040.

43.51A.130 State historical societies—Directors to be members of advisory council—Travel expenses. The directors of the state historical societies shall serve as members of the council without additional compensation. All other members of the council shall be reimbursed for travel expenses incurred in the performance of the duties of the council in accordance with RCW 43.03.050 and 43.03.060, as now existing or hereafter amended. [1977 1st ex.s. c 195 § 11.]

43.51A.140 Utilization of facilities and support of office of governor. The office shall utilize the facilities and administrative support of the office of the governor. [1977 1st ex.s. c 195 § 19.]

Chapter 43.52

OPERATING AGENCIES

Sections

43.52.250	Definitions.
43.52.260	Scope of authority.
43.52.290	Members of the board of directors of an operating agency—Compensation—May hold other public position.
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43.52.350	Operating agencies to provide fishways, facilities and hatcheries—Contracts.
43.52.360	Operating agency—Formation—Additional projects—Appeals—Membership, withdrawal—Dissolution.
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43.52.450	Chapter requirements are cumulative—Preservation of rights—Not subject to utilities and transportation commission.
43.52.480	Nuclear generating projects and associated facilities—"The project" defined—Contract amendments—Legislative intent.
43.52.490	Operating agency—Powers with respect to contract amendments for nuclear generating projects and associated facilities—Limitation.

43.52.250 Definitions. As used in this chapter and unless the context indicates otherwise, words and phrases shall mean:

"District" means a public utility district as created under the laws of the state of Washington authorized to engage in the business of generating and/or distributing electricity.

"City" means any city or town in the state of Washington authorized to engage in the business of generating and/or distributing electricity.

"Canada" means Canada or any province thereof.

"Operating agency" or "joint operating agency" means a municipal corporation created pursuant to RCW 43.52.360, as now or hereafter amended.

"Public utility" means any person, firm or corporation, political subdivision or governmental subdivision including cities, towns and public utility districts engaged in or authorized to engage in the business of generating, transmitting or distributing electric energy. [1977 1st ex.s. c 184 § 1; 1965 c 8 § 43.52.250. Prior: 1953 c 281 § 1.]

43.52.260 Scope of authority. The authority granted in this chapter shall apply equally to the generating of electricity by water power, by steam power, by nuclear power or by any other means whatsoever. [1977 1st ex.s. c 184 § 2; 1965 c 8 § 43.52.260. Prior: 1955 c 258 § 18; 1953 c 281 § 20.]

43.52.290 Members of the board of directors of an operating agency—Compensation—May hold other public position. Members of the board of directors of an operating agency shall be paid the sum of fifty dollars per day for each day or major part thereof devoted to the business of the operating agency, together with their traveling and other necessary expenses. Such member may, regardless of any charter or other provision to the contrary, be an officer or employee holding another public position and, if he be such other public officer or employee, he shall be paid by the operating agency such amount as will, together with the compensation for such other public position equal the sum of fifty dollars per day. [1977 1st ex.s. c 184 § 3; 1965 c 8 § 43.52.290. Prior: 1953 c 281 § 4.]

43.52.300 Powers and duties of an operating agency. An operating agency formed under RCW 43.52.360 shall have authority:

(1) To generate, produce, transmit, deliver, exchange, purchase or sell electric energy and to enter into contracts for any or all such purposes.

(2) To construct, condemn, purchase, lease, acquire, add to, extend, maintain, improve, operate, develop and regulate plants, works and facilities for the generation and/or transmission of electric energy, either within or without the state of Washington, and to take, condemn, purchase, lease and acquire any real or personal, public or private property, franchise and property rights, including but not limited to state, county and school lands and properties, for any of the purposes herein set forth and for any facilities or works necessary or convenient for use in the construction, maintenance or operation of any such works, plants and facilities; provided that an operating agency shall not be authorized to acquire by condemnation any plants, works and facilities owned and operated by any city or district, or by a privately owned public utility. An operating agency shall be authorized to contract for and to acquire by lease or purchase from the United States or any of its agencies, any plants, works or facilities for the generation and transmission of electricity and any real or personal property necessary or convenient for use in connection therewith.

(3) To negotiate and enter into contracts with the United States or any of its agencies, with any state or its agencies, with Canada or its agencies or with any district or city of this state, for the lease, purchase, construction, extension, betterment, acquisition, operation and maintenance of all or any part of any electric generating and transmission plants and reservoirs, works and facilities or rights necessary thereto, either within or without the state of Washington, and for the marketing of the energy produced therefrom. Such negotiations or contracts shall be carried on and concluded with due regard to the position and laws of the United States in respect to international agreements.

(4) To negotiate and enter into contracts for the purchase, sale, exchange, transmission or use of electric energy or falling water with any person, firm or corporation, including political subdivisions and agencies of any state of Canada, or of the United States, at fair and nondiscriminating rates.

(5) To apply to the appropriate agencies of the state of Washington, the United States or any thereof, and to Canada and/or to any other proper agency for such permits, licenses or approvals as may be necessary, and to construct, maintain and operate works, plants and facilities in accordance with such licenses or permits, and to obtain, hold and use such licenses and permits in the same manner as any other person or operating unit.

(6) To establish rates for electric energy sold or transmitted by the operating agency. When any revenue bonds or warrants are outstanding the operating agency shall have the power and shall be required to establish and maintain and collect rates or charges for electric energy, falling water and other services sold, furnished or supplied by the operating agency which shall be fair

and nondiscriminatory and adequate to provide revenues sufficient for the payment of the principal and interest on such bonds or warrants and all payments which the operating agency is obligated to set aside in any special fund or funds created for such purposes, and for the proper operation and maintenance of the public utility owned by the operating agency and all necessary repairs, replacements and renewals thereof.

(7) To act as agent for the purchase and sale at wholesale of electricity for any city or district whenever requested so to do by such city or district.

(8) To contract for and to construct, operate and maintain fishways, fish protective devices and facilities and hatcheries as necessary to preserve or compensate for projects operated by the operating agency.

(9) To construct, operate and maintain channels, locks, canals and other navigational, reclamation, flood control and fisheries facilities as may be necessary or incidental to the construction of any electric generating project, and to enter into agreements and contracts with any person, firm or corporation, including political subdivisions of any state, of Canada or the United States for such construction, operation and maintenance, and for the distribution and payment of the costs thereof.

(10) To employ legal, engineering and other professional services and fix the compensation of a managing director and such other employees as the operating agency may deem necessary to carry on its business, and to delegate to such manager or other employees such authority as the operating agency shall determine. Such manager and employees shall be appointed for an indefinite time and be removable at the will of the operating agency.

(11) To study, analyze and make reports concerning the development, utilization and integration of electric generating facilities and requirements within the state and without the state in that region which affects the electric resources of the state.

(12) To acquire any land bearing coal, uranium, geothermal, or other energy resources, within or without the state, or any rights therein, for the purpose of assuring a long-term, adequate supply of coal, uranium, geothermal, or other energy resources to supply its needs, both actual and prospective, for the generation of power and may make such contracts with respect to the extraction, sale, or disposal of such energy resources that it deems proper. [1977 1st ex.s. c 184 § 4; 1975 1st ex.s. c 37 § 1; 1965 c 8 § 43.52.300. Prior: 1955 c 258 § 1; 1953 c 281 § 5.]

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

43.52.350 Operating agencies to provide fishways, facilities and hatcheries—Contracts. An operating agency shall, at the time of the construction of any dam or obstruction, construct and shall thereafter maintain and operate such fishways, fish protective facilities and hatcheries as the director of game and the director of fisheries may jointly find necessary to permit anadromous fish to pass any dam or other obstruction operated by the operating agency or to replace fisheries damaged

or destroyed by such dam or obstruction and an operating agency is further authorized to enter into contracts with the department of game and the department of fisheries to provide for the construction and/or operation of such fishways, facilities and hatcheries. [1977 1st ex.s. c 184 § 5; 1965 c 8 § 43.52.350. Prior: 1953 c 281 § 11.]

43.52.360 Operating agency—Formation—Additional projects—Appeals—Membership, withdrawal—Dissolution. Any two or more cities or public utility districts or combinations thereof may form an operating agency (herein sometimes called a joint operating agency) for the purpose of acquiring, constructing, operating and owning plants, systems and other facilities and extensions thereof, for the generation and/or transmission of electric energy and power. Each such agency shall be a municipal corporation of the state of Washington with the right to sue and be sued in its own name.

Application for the formation of an operating agency shall be made to the director of the department of ecology (herein sometimes referred to as the director) after the adoption of a resolution by the legislative body of each city or public utility district to be initial members thereof authorizing said city or district to participate. Such application shall set forth (1) the name and address of each participant, together with a certified copy of the resolution authorizing its participation; (2) a general description of the project and the principal project works, including dams, reservoirs, power houses and transmission lines; (3) the general location of the project and, if a hydroelectric project, the name of the stream on which such proposed project is to be located; (4) if the project is for the generation of electricity, the proposed use or market for the power to be developed; (5) a general statement of the electric loads and resources of each of the participants; (6) a statement of the proposed method of financing the preliminary engineering and other studies and the participation therein by each of the participants.

Within ten days after such application is filed with the director of the department of ecology notice thereof shall be published by the director once a week for four consecutive weeks in a newspaper of general circulation in the county or counties in which such project is to be located, setting forth the names of the participants and the general nature, extent and location of the project. Any public utility wishing to do so may object to such application by filing an objection, setting forth the reasons therefor, with the director of the department of ecology not later than ten days after the date of last publication of such notice.

Within ninety days after the date of last publication the director shall either make findings thereon or have instituted a hearing thereon. In event the director has neither made findings nor instituted a hearing within ninety days of the date of last publication, or if such hearing is instituted within such time but no findings are made within one hundred and twenty days of the date of such last publication, the application shall be deemed to

have been approved and the operating agency established. If it shall appear (a) that the statements set forth in said application are substantially correct; (b) that the contemplated project is such as is adaptable to the needs, both actual and prospective, of the participants and such other public utilities as indicate a good faith intention by contract or by letter of intent to participate in the use of such project; (c) that no objection to the formation of such operating agency has been filed by any other public utility which prior to and at the time of the filing of the application for such operating agency had on file a permit or license from an agency of the state or an agency of the United States, whichever has primary jurisdiction, for the construction of such project; (d) that adequate provision will be made for financing the preliminary engineering, legal and other costs necessary thereto; the director shall make findings to that effect and enter an order creating such operating agency, establishing the name thereof and the specific project for the construction and operation for which such operating agency is formed. Such order shall not be construed to constitute a bar to any other public utility proceeding according to law to procure any required governmental permits, licenses or authority, but such order shall establish the competency of the operating agency to proceed according to law to procure such permits, licenses or authority.

No operating agency shall undertake projects in addition to those for which it was formed without the approval of the legislative bodies of a majority of the members thereof. In the event that an operating agency desires to undertake such a hydroelectric project at a site or sites upon which any publicly or privately owned public utility has a license or permit or has a prior application for a license or permit pending with any commission or agency, state or federal, having jurisdiction thereof, application to construct such additional project shall be made to the director of the department of ecology in the same manner, subject to the same requirements and with the same notice as required for an initial agency and project and shall not be constructed until an order authorizing the same shall have been made by the director in the manner provided for such original application.

Any party who has joined in filing the application for, or objections against, the creation of such operating agency and/or the construction of an additional project, and who feels aggrieved by any order or finding of the director shall have the right to appeal to the superior court in the manner set forth in RCW 43.52.430.

After the formation of an operating agency, any other city or district may become a member thereof upon application to such agency after the adoption of a resolution of its legislative body authorizing said city or district to participate, and with the consent of the operating agency by the affirmative vote of the majority of its members. Any member may withdraw from an operating agency, and thereupon such member shall forfeit any and all rights or interest which it may have in such operating agency or in any of the assets thereof: *Provided*, That all contractual obligations incurred while a

member shall remain in full force and effect. An operating agency may be dissolved by the unanimous agreement of the members, and the members, after making provisions for the payment of all debts and obligations, shall thereupon hold the assets thereof as tenants in common. [1977 1st ex.s. c 184 § 6; 1965 c 8 § 43.52.360. Prior: 1957 c 295 § 1; 1955 c 258 § 3; 1953 c 281 § 12.]

Generation of electric energy by steam: RCW 43.21.250–43.21.410.

43.52.370 Operating agency board—Members, appointment, vote, term, etc.—Rules—Proceedings. The management and control of an operating agency shall be vested in a board of directors, herein sometimes referred to as the board. The legislative body of each member of an operating agency shall appoint a representative who may, at the discretion of the member and regardless of any charter or other provision to the contrary, be an officer or employee of the member, to serve on the board of the operating agency. Each representative shall have one vote and shall have, in addition thereto, one vote for each block of electric energy equal to ten percent of the total energy generated by the agency during the preceding year purchased by the member represented by such representative. Each member may appoint an alternative representative to serve in the absence or disability of its representative. Each representative shall serve at the pleasure of the member. The board of an operating agency shall elect from its members a president, vice president and secretary, who shall serve at the pleasure of the board. The president and secretary shall perform the same duties with respect to the operating agency as are provided by law for the president and secretary, respectively, of public utility districts, and such other duties as may be provided by motion, rule or resolution of the board. The board of an operating agency shall adopt rules for the conduct of its meetings and the carrying out of its business, and adopt an official seal. All proceedings of an operating agency shall be by motion or resolution and shall be recorded in the minute book which shall be a public record. A majority of the board members shall constitute a quorum for the transaction of business. A majority of the votes which the members present are entitled to cast shall be necessary and sufficient to pass any motion or resolution: *Provided*, That such board members are entitled to cast a majority of the votes of all members of the board. The members of the board of an operating agency may be compensated by such agency as is provided in RCW 43.52.290: *Provided*, That the per diem compensation to any member shall not exceed five thousand dollars in any year. [1977 1st ex.s. c 184 § 7; 1965 c 8 § 43.52.370. Prior: 1957 c 295 § 2; 1953 c 281 § 13.]

43.52.391 Powers and duties of operating agency. Except as otherwise provided in this section, a joint operating agency shall have all powers now or hereafter granted public utility districts under the laws of this state. It shall not acquire nor operate any electric distribution properties nor condemn any properties owned by a public utility which are operated for the generation and transmission of electric power and energy or are being developed for such purposes with due diligence.

under a valid license or permit, nor purchase or acquire any operating hydroelectric generating plant owned by any city or district on June 11, 1953, or which may be acquired by any city or district by condemnation on or after January 1, 1957, nor levy taxes, issue general obligation bonds, or create subdistricts. It may enter into any contracts, leases or other undertakings deemed necessary or proper and acquire by purchase or condemnation any real or personal property used or useful for its corporate purposes. Actions in eminent domain may be instituted in the superior court of any county in which any of the property sought to be condemned is located and the court in any such action shall have jurisdiction to condemn property wherever located within the state; otherwise such actions shall be governed by the same procedure as now or hereafter provided by law for public utility districts. An operating agency may sell steam or water not required by it for the generation of power and may construct or acquire any facilities it deems necessary for that purpose.

An operating agency may make contracts for any term relating to the purchase, sale, interchange or wheeling of power with the government of the United States or any agency thereof and with any municipal corporation or public utility, within or without the state, and may purchase or deliver power anywhere pursuant to any such contract. An operating agency may acquire any coal-bearing lands for the purpose of assuring a long-term, adequate supply of coal to supply its needs, both actual and prospective, for the generation of power and may make such contracts with respect to the extraction, sale or disposal of coal that it deems proper.

Any member of an operating agency may advance or contribute funds to an agency as may be agreed upon by the agency and the member, and the agency shall repay such advances or contributions from proceeds of revenue bonds, from operating revenues or from any other funds of the agency, together with interest not to exceed six percent per annum. [1977 1st ex.s. c 184 § 8; 1965 c 8 § 43.52.391. Prior: 1957 c 295 § 5.]

Liability to other taxing districts for increased financial burdens: Chapter 54.36 RCW.

43.52.410 City or district may contract for electric energy or falling waters. Any city or district is authorized to enter into contracts or compacts with any operating agency or a publicly or privately owned public utility for the purchase and sale of electric energy or falling waters. [1977 1st ex.s. c 184 § 9; 1965 c 8 § 43.52.410. Prior: 1953 c 281 § 17.]

43.52.430 Appeals from director of department of ecology. Any party in interest deeming itself aggrieved by any order of the director of the department of ecology may appeal to the superior court of Thurston county by serving upon the director and filing with clerk of said court within thirty days after the entry of the order a notice of appeal. The director shall, within ten days after service of the notice of appeal, file with the clerk of the court a return containing a true copy of the order appealed from, together with a transcript of the record of the proceeding before the director, after which the

appeal shall be at issue. The appeal shall be heard and decided by the court upon the record before the director and the court may either affirm, set aside, or remand the order appealed from for further proceedings. Appeal may be had to the supreme court or the court of appeals as in the case of civil appeals. [1977 1st ex.s. c 184 § 10; 1971 c 81 § 113; 1965 c 8 § 43.52.430. Prior: 1953 c 281 § 19.]

43.52.450 Chapter requirements are cumulative—Preservation of rights—Not subject to utilities and transportation commission. The provisions of this chapter shall be cumulative and shall not impair or supersede the powers or rights of any person, firm or corporation or political subdivision of the state of Washington under any other law. The rights of all persons, firms, corporations and political subdivisions or operating units of any kind under existing contracts, renewals thereof or supplements thereto, with the United States, or any agency thereof, for power, are hereby preserved and such rights shall not be impaired or modified by any of the provisions of this chapter or any of the powers granted by this chapter.

The rates, services and practices of any operating agency in respect to the power generated, transmitted or sold by it shall not be governed by the regulations of the utilities and transportation commission. [1977 1st ex.s. c 184 § 11; 1965 c 8 § 43.52.450. Prior: 1953 c 281 § 10.]

43.52.480 Nuclear generating projects and associated facilities—"The project" defined—Contract amendments—Legislative intent. The construction of a nuclear generating project and associated facilities, hereafter referred to in RCW 43.52.480 and 43.52.490 as "the project", by an operating agency requires a number of years for completion after a construction contract is let therefor. After such a contract is let it frequently becomes necessary to amend it for the purpose of complying with changes in applicable governmental regulations or standards or with changes in plans and specifications developed by the project architect-engineer for the improvement of safety or feasibility or for the expediting of project completion on the most advantageous terms in the public interest. The intent of this statute is to clarify and extend the powers of an operating agency to make contract amendments for such purposes. [1977 1st ex.s. c 28 § 1.]

43.52.490 Operating agency—Powers with respect to contract amendments for nuclear generating projects and associated facilities—Limitation. An operating agency shall have the power to make any amendment to a contract previously let for the construction of the project, by change order or other writing, if it finds that such amendment is necessary to comply with applicable regulations or standards of any state or federal governmental agency, or with any change in plans or specifications recommended by the architect-engineer in charge of the project or under his (its) direction for the purpose of improving the safety or feasibility of the project or expediting completion of the project on the

most advantageous terms in the public interest: *Provided*, That such amendment does not provide for construction of a project basically different from that provided for in such contract. [1977 1st ex.s. c 28 § 2.]

Chapter 43.56

UNIFORM LEGISLATION COMMISSION

Sections

43.56.030 Record to be kept—Reports.

43.56.030 Record to be kept—Reports. The board shall keep a record of all its transactions, and shall, at each regular session, and may at any other time, make a report to the legislature of its doings and recommendations. [1977 c 75 § 59; 1965 c 8 § 43.56.030. Prior: 1905 c 59 § 3; RRS § 8206.]

Chapter 43.60A

DEPARTMENT OF VETERANS AFFAIRS

Sections

43.60A.075 Powers as to state soldiers' home and Washington veterans' home.
43.60A.080 Veterans affairs advisory committee—Created—Membership—Terms—Powers and duties.
43.60A.081 Expiration of state veterans affairs advisory committee—June 30, 1983.

43.60A.075 Powers as to state soldiers' home and Washington veterans' home. The director of the department of veterans affairs shall have full power to manage and govern the state soldiers' home and colony and the Washington veterans' home. [1977 c 31 § 5.]

43.60A.080 Veterans affairs advisory committee—Created—Membership—Terms—Powers and duties. (1) There is hereby created a state veterans affairs advisory committee which shall serve in an advisory capacity to the governor and the director of the department of veterans affairs. The committee shall be composed of eleven members to be appointed by the governor, and shall consist of two veterans at large, one of whom shall be a Viet Nam era veteran; one representative of the Washington soldiers' home and colony at Orting; one representative of the Washington veterans' home at Retsil; and one representative of each of the following congressionally chartered veterans organizations: American Legion, Veterans of Foreign Wars, American Veterans of World War II, Korea and Vietnam, Disabled American Veterans, Military Order of the Purple Heart, Marine Corps League, and Veterans of World War I. The seven members representing the foregoing organizations shall be chosen from a list of twenty-one nominees consisting of three names submitted to the governor by each of the named organizations. The first members of the committee shall hold office as follows: Three members to serve two years; three members to serve three years; and three members to serve four years. The first members appointed to represent the soldiers' home and colony at Orting and the veterans' home at Retsil shall hold office for four years. Upon

expiration of said original terms, subsequent appointments shall be for four years except in the case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member shall serve more than two consecutive terms.

(2) The state advisory committee shall have the following powers and duties:

(a) To serve in an advisory capacity to the governor and the director on all matters pertaining to the department of veterans affairs;

(b) To acquaint themselves fully with the operations of the department and recommend such changes to the governor and the director as they deem advisable.

(3) Members of the state advisory committee shall receive no compensation for the performance of their duties but shall receive a per diem allowance and mileage expense according to the provisions of chapter 43.03 RCW. [1977 1st ex.s. c 285 § 1; 1975-'76 2nd ex.s. c 115 § 14.]

43.60A.081 Expiration of state veterans affairs advisory committee—June 30, 1983. The state veterans affairs advisory committee and its duties shall cease to exist on June 30, 1983, unless extended by law for an additional fixed period of time. [1977 1st ex.s. c 285 § 2.]

Chapter 43.61

VETERANS' REHABILITATION COUNCIL

Sections

43.61.040 Director of veterans affairs to make rules and regulations—Veteran services—Annual report.

43.61.040 Director of veterans affairs to make rules and regulations—Veteran services—Annual report. The director of veterans affairs shall make such rules and regulations as may be necessary to carry out the purposes of this chapter. The department shall furnish information, advice, and assistance to veterans and coordinate all programs and services in the field of veterans' claims service, education, health, vocational guidance and placement, and services not provided by some other agency of the state or by the federal government. The director shall submit a report of the departments' activities hereunder each year to the governor. [1977 c 75 § 60; 1975-'76 2nd ex.s. c 115 § 22; 1971 ex.s. c 189 § 6; 1970 ex.s. c 18 § 34; 1965 c 8 § 43.61.040. Prior: 1947 c 110 § 3; RRS § 10758-102.]

Savings—Construction—Severability—1975-'76 2nd ex.s. c 115: See RCW 43.60A.905, 43.60A.907, 43.60A.908.

Chapter 43.62

DETERMINATION OF POPULATIONS— STUDENT ENROLLMENTS

Sections

43.62.030 Determination of population—Certificate—Allocation of state funds.

43.62.050 Student enrollment forecasts—Report.

43.62.030 Determination of population—Certificate—Allocation of state funds. The office of program planning and fiscal management shall annually as of April 1st, determine the populations of all cities and towns of the state; and on or before July 1st of each year, shall file with the secretary of state a certificate showing its determination as to the populations of cities and towns of the state. A copy of such certificate shall be forwarded by the agency to each state official or department responsible for making allocations or payments, and on and after January 1st next following the date when such certificate or certificates are filed, the population determination shown in such certificate or certificates shall be used as the basis for the allocation and payment of state funds, to cities and towns until the next January 1st following the filing of successive certificates by the agency: *Provided*, That whenever territory is annexed to a city or town, the population of the annexed territory shall be added to the population of the annexing city or town upon the effective date of the annexation as specified in the relevant ordinance, and upon approval of the agency as provided in RCW 35.13.260, as now or hereafter amended, a revised certificate reflecting the determination of the population as increased from such annexation shall be forwarded by the agency to each state official or department responsible for making allocations or payments, and upon and after the date of the commencement of the next quarterly period, the population determination indicated in such revised certificate shall be used as the basis for allocation and payment of state funds to such city or town until the next annual population determination becomes effective: *Provided further*, That whenever any city or town becomes incorporated subsequent to the determination of such population, the populations of such cities and towns as shown in the records of incorporation filed with the secretary of state shall be used in determining the amount of allocation and payments, and the agency shall so notify the proper state officials or departments, and such cities and towns shall be entitled to participate in allocations thereafter made: *Provided further*, That in case any incorporated city or town disincorporates subsequent to the filing of such certificate or certificates, the agency shall promptly notify the proper state officials or departments thereof, and such cities and towns shall cease to participate in allocations thereafter made, and all credit accrued to such incorporated city or town shall be distributed to the credit of the remaining cities and towns. The secretary of state shall promptly notify the agency of the incorporation of each new city and town and of the disincorporation of any cities or towns.

For the purposes of this section, each quarterly period shall commence on the first day of the months of January, April, July, and October. Whenever a revised certificate due to an annexation is forwarded by the agency thirty days or less prior to the commencement of the next quarterly period, the population of the annexed territory shall not be considered until the commencement of the following quarterly period. [1977 c 75 § 61; 1969 ex.s. c 50 § 2; 1965 c 8 § 43.62.030. Prior: 1957 c 175 § 3; 1951 c 96 § 2.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

1969 allocations: "The allocation of state funds to cities and towns for the calendar year 1969 shall be made on the basis of the laws in effect prior to the effective date of this act." [1969 ex.s. c 50 § 3.] This applies to RCW 35.13.260 and 43.62.030. The effective date of 1969 ex.s. c 50 was August 11, 1969.

Determination of population of area annexed to city: RCW 35.13.260.

43.62.050 Student enrollment forecasts—Report.

The office of program planning and fiscal management shall develop and maintain student enrollment forecasts of Washington schools, including both public and private, elementary schools, junior high schools, high schools, colleges, and universities. A current report of such forecasts shall be submitted to the standing committees on ways and means of the house and the senate on or before the fifteenth day of November of each even-numbered year. [1977 c 75 § 62; 1975 1st ex.s. c 293 § 2; 1965 c 8 § 43.62.050. Prior: 1959 c 171 § 1; 1957 c 229 § 1.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Severability—1975 1st ex.s. c 293: See RCW 43.88.902.

Effective date—1975 1st ex.s. c 293: See RCW 43.88.910.

Review of reported FTE students: RCW 28B.41.140.

Chapter 43.63A

PLANNING AND COMMUNITY AFFAIRS

Sections

43.63A.070	Planning functions and responsibilities.
43.63A.080	Community affairs functions and responsibilities.
43.63A.085	Inventory of state land resources—Developing and maintaining—Summaries.

43.63A.070 Planning functions and responsibilities.

The planning and community affairs agency shall have the following planning functions and responsibilities:

(1) Provide technical assistance to the governor and the legislature in identifying long range goals for the state;

(2) Prepare a state comprehensive plan as the state's long range public declaration of intent in developmental policy, for programming its facilities and services and for guidance of private activities and public programs at all levels of government. Plan elements may include but shall not be limited to transportation, scenic highways, public facilities, recreation, open spaces, natural resources, patterns of urban and rural development, and quality of the natural and man-made environment: *Provided*, That plan elements relating to transportation shall be in accord with the state-wide transportation policies and plans developed by the transportation commission pursuant to RCW 47.01.071;

(3) Provide assistance and coordination to other state agencies for preparation of agency plans and programs;

(4) Provide general coordination and review of plans in functional areas of state government as may be necessary for receipt of federal or state funds;

(5) Participate with other states or subdivisions thereof in interstate planning, and assist cities, counties, municipal corporations, governmental conferences or councils, and regional planning commissions to participate with other states or their subdivisions in planning;

(6) Assist the office of program planning and fiscal management in capital improvement programming and other programming activities;

(7) Encourage educational and research programs that further planning and community development, and provide administrative and technical services therefor. [1977 1st ex.s. c 151 § 28; 1967 c 74 § 7.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Federal requirements—Severability—1977 1st ex.s. c 151: See RCW 47.98.070 and 47.98.080.

43.63A.080 Community affairs functions and responsibilities. The planning and community affairs agency shall have the following community affairs functions and responsibilities:

(1) Administration or coordination of state programs and projects relating to community affairs for the planning and carrying out of the acquisition, preservation, use and development of land and provision of public facilities and services for fully carrying out the state's role in related federal grant or loan programs.

(a) Where not otherwise authorized by state law, authorize state financial participation with cities, towns, counties, and other municipal corporations in financing public works projects and service programs. The assisted projects and programs shall be consistent with local, regional and state comprehensive plans and policies.

(b) All applications for federal grants and/or loans for this purpose shall be submitted to the planning and community affairs agency for recommendation as to consistency with, state, regional, local or other plans or policies and for duplication or conflicts so as to maximize federal benefits available to the state.

(c) The director shall approve or disapprove state grants administered by the planning and community affairs agency to apply toward the nonfederal share of project costs in conformity with the provisions of this chapter. Such approval may be conditional upon approval of a governmental conference or council, or regional planning agency, which provides review of federal aid applications within its regional area, and upon subsequent approval of the project by an appropriate federal agency for federal grant funds. Upon approval of the application the director shall transmit it to the appropriate federal agency. Any application disapproved by the director shall be returned to the applicant with written notice of modification necessary to make the project eligible in terms of state or federal policies.

(2) Cooperate with and provide technical and financial assistance to counties, cities, municipal corporations, governmental conferences or councils, regional planning commissions, parks or recreation boards, community development groups, community action agencies, Indian tribes, and similar agencies created for the purposes of

aiding and encouraging an orderly productive and coordinated development of the state, and to strengthen local planning responsibility and capability.

(3) Assist the governor in coordinating the activities of state agencies which have an impact on the solution of community development problems and the implementation of community plans.

(4) Encourage and, when requested, assist the efforts of local governments to develop mutual and cooperative solutions to their common problems.

(5) Study existing legal provisions that affect the structure and financing of local government and those state activities which involve significant relations with local governmental units and recommend to the governor and the legislature such changes in these provisions and activities as may seem necessary to strengthen local government.

(6) Serve as a clearinghouse for information, data, and other materials which may be helpful or necessary to local governments to discharge their responsibilities. The clearinghouse should also provide information on available federal and state financial and technical assistance.

(7) Carry out continuing studies and analyses of the problems faced by communities within the state and develop such recommendations for administrative or legislative action as would appear necessary. In carrying out such studies and analyses, particular attention should be paid to the problems of regional, metropolitan, urban, suburban, rural, and other areas in which economic and population factors are rapidly changing.

(8) Develop and/or test model or demonstration programs and projects, which may include contracting to administer certain functions or services within a community of the state for such purposes, and otherwise provide a program of practical research in the solution of community problems.

(9) Carry out the provisions of RCW 43.31.200 through 43.31.230; RCW 35.13.171(3) relating to annexation review board responsibilities; and RCW 58.17.270 relating to state review of subdivision regulations. The department of commerce and economic development shall transfer all records, books, documents, papers, files, or other writings, all cabinets, furniture, office equipment and other tangible property, and all funds in custody or under control or use by the department and any other pertinent information relative to the business being carried on thereunder to the agency as soon as practicable after July 1, 1967 and give such other assistance to the director of the planning and community affairs agency as essential to carrying out the purposes of this chapter. The transfer of powers and duties as provided in this subsection shall not affect the validity of any acts performed by such agency or any officer or employee thereof before taking effect of this chapter. All matters relating to functions transferred under the provisions of this subsection which at the time of transfer have not been completed may be undertaken and completed by the director of the planning and community affairs agency, who is authorized, empowered, and directed to promulgate any and all orders, rules and regulations necessary to accomplish this purpose.

(10) Review all proposals for the location of capital improvements by any state agency to be located within any city or within any urbanized area not located within a city, and advise and make recommendations concerning location of such capital improvements.

The office shall, in carrying out its functions, consult with local and federal officials, private groups and individuals, and with officials of other states, and may, if the director deems it desirable, hold public hearings to obtain information for the purpose of carrying out the purposes of this chapter. All state agencies and their officials and the officials of any political subdivision of the state shall cooperate with and give such assistance to the office, including the submission of requested information as to allow the office to carry out its purposes under this chapter. [1977 c 75 § 63; 1967 c 74 § 8.]

43.63A.085 Inventory of state land resources—Developing and maintaining—Summaries. The office of program planning and fiscal management shall provide by administrative regulation for the maintenance of an inventory of all state owned or controlled land resources by all state agencies owning or controlling land. That office shall cooperate with the state departments and agencies charged with administering state owned and/or controlled land resources to assist them in developing and maintaining land resources inventories that will permit their respective inventories to be summarized into meaningful reports for the purposes of providing executive agencies with information for planning, budgeting, and managing state owned or administered land resources and to provide the legislature, its members, committees, and staff with data needed for formulation of public policy.

Such departments or agencies shall maintain and make available such summary inventory information as may be prescribed by the rules and regulations of the office of program planning and fiscal management. That office shall give each affected department or agency specific written notice of hearings for consideration, adoption, or modification of such rules and regulations. All information submitted to that office as provided herein shall be a matter of public record and shall be available from said agency upon request. [1977 c 75 § 64; 1969 ex.s. c 53 § 1.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Land use data bank—Contents, source—Consultants authorized—Use: RCW 79.68.120.

Chapter 43.77

PRINTING AND DUPLICATING COMMITTEE

Sections

43.77.010 through 43.77.050 Repealed.

43.77.010 through 43.77.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 43.79 STATE FUNDS

Sections

- 43.79.150 Normal school grant to former state colleges of education.
- 43.79.180 Former state colleges of education—Moneys paid into general fund for support of.
- 43.79.280 Duty of governor on approval.
- 43.79.304 Central College fund—Other revenue for support of Central Washington University.
- 43.79.314 Eastern College fund—Other revenue for support of Eastern Washington University.
- 43.79.324 Western College fund—Other revenue for support of Western Washington University.

General fund, Washington State University construction account created: RCW 28B.31.040.

State higher education bond retirement fund of 1977: RCW 28B.14B.050.

Washington State University bond retirement fund of 1977—Created—Purpose: RCW 28B.31.060.

43.79.150 Normal school grant to former state colleges of education. The one hundred thousand acres of land granted by the United States government to the state for state normal schools in section 17 of the enabling act are assigned to the support of the regional universities, which were formerly the state colleges of education. [1977 1st ex.s. c 169 § 104; 1965 c 8 § 43.79.150.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

43.79.180 Former state colleges of education—Moneys paid into general fund for support of. There shall be paid into the state general fund for the use and support of the regional universities (formerly state colleges of education) the following moneys:

(1)—All moneys collected from the lease or rental of lands set apart by the enabling act or otherwise for the state normal schools;

(2)—All interest or income arising from the proceeds of the sale of such lands;

(3)—All moneys received or collected as interest on deferred payments on contracts for the sale of such lands. [1977 1st ex.s. c 169 § 105; 1965 c 8 § 43.79.180. Prior: 1905 c 43 § 4; RRS § 5523.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

43.79.280 Duty of governor on approval.

Federal funds and programs—Reports to the legislature: RCW 43.06.140.

43.79.304 Central College fund—Other revenue for support of Central Washington University. No revenue from any source other than the general fund, which, except for the provisions hereof, would have been paid into the Central College fund, shall be used for any purpose except the support of the Central Washington University (formerly Central Washington State College). [1977 1st ex.s. c 169 § 106; 1965 c 8 § 43.79.304. Prior: 1955 c 333 § 5.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

43.79.314 Eastern College fund—Other revenue for support of Eastern Washington University. No revenue from any source other than the general fund, which, except for the provisions hereof, would have been paid into the Eastern College fund, shall be used for any purpose except the support of the Eastern Washington University (formerly Eastern Washington State College). [1977 1st ex.s. c 169 § 107; 1965 c 8 § 43.79.314. Prior: 1955 c 334 § 5.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

43.79.324 Western College fund—Other revenue for support of Western Washington University. No revenue from any source other than the general fund, which, except for the provisions hereof, would have been paid into the Western College fund, shall be used for any purpose except the support of the Western Washington University (formerly Western Washington State College). [1977 1st ex.s. c 169 § 108; 1965 c 8 § 43.79.324. Prior: 1955 c 335 § 5.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Chapter 43.83A

WASTE DISPOSAL FACILITIES BOND ISSUE

Sections

- 43.83A.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.

43.83A.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the planning, acquisition, construction, and improvement of public waste disposal facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of two hundred twenty-five million dollars or so much thereof as may be required to finance the improvements defined in this chapter and all costs incidental thereto. As used in this section the phrase "public waste disposal facilities" shall not include the acquisition of equipment used to collect, carry, and transport garbage. 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. [1977 1st ex.s. c 242 § 1; 1972 ex.s. c 127 § 2.]

Severability—1977 1st ex.s. c 242: "If any provision of this 1977 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." [1977 1st ex.s. c 242 § 6.] This annotation consists of the 1977 amendments to RCW 28B.56.020, 43.83A.020, 43.83B.020, 43.83C.020, and 43.83D.020.

Chapter 43.83B
WATER SUPPLY FACILITIES

Sections

43.83B.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.

AGRICULTURAL WATER SUPPLY FACILITIES

43.83B.210 Loans or grants from department of ecology—Authorized—Limitations.

EMERGENCY WATER WITHDRAWAL AND FACILITIES

43.83B.300 Legislative finding—General obligation bonds authorized—Issuance, terms—Appropriation required.

43.83B.305 Priority of domestic and irrigation uses.

43.83B.310 Department of ecology authorized to issue emergency withdrawal permits for any beneficial use—Findings, conditions, limitations.

43.83B.315 Department of social and health services authorized to issue emergency withdrawal permits for municipal and industrial facilities—Findings, conditions, limitations.

43.83B.320 Zoning, building and construction permits, public bidding requirements waived—Short term easements or property interests on public lands.

43.83B.325 Effect upon existing water rights, establishment of water rights, withdrawal of water.

43.83B.330 Rules.

43.83B.335 Civil penalties.

43.83B.340 Temporary personnel.

43.83B.345 Rates of charges for water—Payment into bond redemption fund—Grants and loans—Contracts.

43.83B.350 Loans or grants from department of ecology—Authorized—Limitations.

43.83B.355 Form, sale, conditions, etc. of bonds—"Water supply facilities for water withdrawal and distribution" defined.

43.83B.360 Bond anticipation notes—Disposition of proceeds from sale of bonds and notes.

43.83B.365 Administration of proceeds from sale of bonds.

43.83B.370 Retirement of bonds and notes from emergency water projects bond redemption fund—Remedies of bond holders.

43.83B.375 Bonds legal investment for public funds.

43.83B.380 Appropriations to department of social and health services—Authorized projects—Conditions.

43.83B.385 Appropriations to department of ecology—Authorized projects—Findings.

43.83B.901 Severability—1977 1st ex.s. c 1.

43.83B.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the planning, acquisition, construction, and improvement of water supply facilities within the state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of seventy-five 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. [1977 1st ex.s. c 242 § 2; 1972 ex.s. c 128 § 2.]

Severability—1977 1st ex.s. c 242: See note following RCW 43.83A.020.

AGRICULTURAL WATER SUPPLY FACILITIES

43.83B.210 Loans or grants from department of ecology—Authorized—Limitations. The department of ecology is authorized to make loans or grants or combinations thereof to eligible public bodies as defined in RCW 43.83B.050 for rehabilitation or betterment of agricultural water supply facilities, and/or construction of agricultural water supply facilities required to develop new irrigated lands or, when required because of emergency drought conditions, to provide water to previously irrigated lands. The department of ecology may make such loans or grants or combinations thereof as matching funds in any case where federal, local, or other funds have been made available on a matching basis. A loan or combination loan and grant shall not exceed fifty percent of the approved eligible project costs for any single proposed project: *Provided*, That for projects authorized by RCW 43.83B.385 the department of ecology may make a loan or combination loan and grant up to one hundred percent of the total single project cost and the grant portion for any single project shall not exceed fifteen percent of the total single project cost. Any grant or grant portion of a combination loan and grant for any single proposed project shall not exceed fifteen percent of the eligible project costs: *Provided*, That the fifteen percent limitation established herein shall not be applicable to project commitments which the director or deputy director of the state department of ecology made to the bureau of reclamation of the United States department of interior for providing state funding at thirty-five percent of project costs during the period between August 1, 1974, and June 30, 1975.

The department of social and health services is authorized to make grants of up to forty percent of the cost of construction of any eligible project necessitated by the 1977 drought conditions. Such grants may be made only to public bodies as defined in RCW 43.83B.050 for municipal and industrial water supply and distribution facilities. [1977 1st ex.s. c 1 § 11; 1975-'76 2nd ex.s. c 36 § 1; 1975 1st ex.s. c 295 § 3.]

EMERGENCY WATER WITHDRAWAL AND FACILITIES

43.83B.300 Legislative finding—General obligation bonds authorized—Issuance, terms—Appropriation required. The legislature finds that it is necessary to provide the department of ecology with emergency powers to authorize withdrawals of public surface and ground waters, including dead storage within reservoirs, on a temporary basis, and construction of facilities in relation thereto, in order to alleviate emergency water supply conditions arising from the drought forecast for the state of Washington during the summer and fall of 1977.

In order to provide needed capital for the planning, acquisition, construction, and improvement of water supply facilities to withdraw and distribute water to alleviate emergency water supply conditions arising from the drought forecast for the state of Washington during

the summer and fall of 1977, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eighteen million dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by this section and RCW 43.83B.360 through 43.83B.375 shall be offered for sale without prior legislative appropriation, and these 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. [1977 1st ex.s. c 1 § 1.]

43.83B.305 Priority of domestic and irrigation uses. Domestic and irrigation uses of public surface and ground waters shall be given priority in determining "beneficial uses" for the purposes of RCW 43.83B.310. [1977 1st ex.s. c 1 § 2.]

43.83B.310 Department of ecology authorized to issue emergency withdrawal permits for any beneficial use—Findings, conditions, limitations. In addition to the powers previously vested in the department of ecology to permit the withdrawal of public surface and ground waters by chapters 90.03 and 90.44 RCW, the department of ecology is authorized to permit withdrawals of public surface and ground waters, including dead storage within reservoirs, on a temporary basis, for any period ending not later than September 30, 1977, for any beneficial use. The department may issue such emergency permits if, after investigation and after providing appropriate federal, state, and local governmental bodies an opportunity to comment, the following are found:

(1) The waters proposed for withdrawal are to be used in relation to beneficial use involving a previously established activity or purpose; and

(2) The previously established activity or purpose was furnished water through rights applicable to the use of a public water body which are not exercisable due to the lack of water arising from natural drought conditions; and

(3) The proposed withdrawal will not reduce flows or levels below essential minimums necessary (a) to assure the maintenance of fisheries requirements, and (b) to protect federal and state interests including, among others, power generation, navigation, and existing water rights.

All permits issued hereunder shall contain provisions which allow for termination of authorized withdrawals, in whole or in part, whenever withdrawals will conflict with flows and levels as provided in subsection (3) of this section. [1977 1st ex.s. c 1 § 3.]

43.83B.315 Department of social and health services authorized to issue emergency withdrawal permits for municipal and industrial facilities—Findings, conditions, limitations. In addition to any other powers previously vested in the department of social and health services, the department is authorized to permit withdrawal of public surface and ground waters for municipal and industrial water supply and distribution facilities to alleviate emergency water supply conditions arising

from the drought forecast for the state during the summer and fall of 1977. Such authorization shall be on a temporary basis for any period ending not later than September 30, 1977. The department may issue such emergency permits if, after investigation and after providing appropriate federal, state, and local governmental bodies an opportunity to comment, the following are found:

(1) The waters proposed for withdrawal are to be used in relation to beneficial use involving a previously established activity or purpose; and

(2) The previously established activity or purpose was furnished water through rights applicable to the use of a public water body which are not exercisable due to the lack of water arising from natural drought conditions; and

(3) The proposed withdrawal will not reduce flows or levels below essential minimums necessary (a) to assure the maintenance of fisheries requirements, and (b) to protect federal and state interests including, among others, power generation, navigation, and existing water rights.

All permits issued hereunder shall contain provisions which allow for termination of authorized withdrawals, in whole or in part, whenever withdrawals will conflict with flows and levels as provided in subsection (3) of this section. [1977 1st ex.s. c 1 § 4.]

43.83B.320 Zoning, building and construction permits, public bidding requirements waived—Short term easements or property interests on public lands. (1) As to projects and water withdrawal permits issued or authorized or both under RCW 43.83B.310 and 43.83B.315, the requirements of chapter 43.21C RCW and all local zoning ordinances, plans, and local building and construction permit ordinances are waived and inapplicable. Notwithstanding any other provisions of law, water projects and related withdrawal permits, authorized or issued pursuant to RCW 43.83B.310 or 43.83B.315 shall not be subject to any public notice requirements. Permits issued under RCW 43.83B.310 and 43.83B.315 shall be in lieu of all environmental protection and natural resource regulation permits, certificates, and other approvals and authorization documents required under state statutes including, but not limited to, RCW 90.58-.140, 75.20.100, and 86.16.080, as well as all other similar permits required under local ordinances. All state departments or other agencies having jurisdiction over state or other public lands which are required to be used in carrying out projects related to water withdrawal permits, issued pursuant to RCW 43.83B.310 and 43.83B.315, shall provide short term easements or other appropriate property interests upon the payment of the fair market value: *Provided*, That this mandate shall not apply to any lands of the state which are reserved for a special purpose or use which cannot properly be carried out if such a property interest were to be conveyed.

(2) Upon request of the department of ecology or the department of social and health services, the department of general administration may waive any public bidding requirements otherwise provided by law, for any project authorized by RCW 43.83B.310 or 43.83B.315 and

financed with funds appropriated in RCW 43.83B.300 through 43.83B.385, 43.83B.901, and 43.83B.210 if the department of general administration determines that (a) an emergency condition exists, and (b) if the request for a waiver is not approved the public interest will be significantly affected in a detrimental manner. The department of general administration shall rule upon requests for waiver submitted to it within five working days. If the department fails to rule within said five-day period the request shall be deemed approved and a waiver deemed to be granted. The department of general administration, after obtaining the views of the department of ecology and the department of social and health services, shall adopt rules to implement this section. Notwithstanding any other provision of RCW 43.83B.300 through 43.83B.385, 43.83B.901, and 43.83B.210, this subsection shall terminate on September 30, 1977. [1977 1st ex.s. c 1 § 5.]

43.83B.325 Effect upon existing water rights, establishment of water rights, withdrawal of water. (1) Nothing in RCW 43.83B.300 through 43.83B.345 shall authorize any interference whatsoever with existing water rights.

(2) Nothing in RCW 43.83B.300 through 43.83B.345 shall authorize the establishment of rights to withdrawal of waters of a permanent nature or of rights with any priority.

(3) Nothing in RCW 43.83B.300 through 43.83B.345 shall authorize the establishment of a water right under RCW 90.03.250 or 90.44.060.

(4) Nothing in RCW 43.83B.300 through 43.83B.345 shall preclude any person from filing an application pursuant to RCW 90.03.250 or 90.44.060: *Provided, however,* That any such application for withdrawal rights as to withdrawals made under authority of RCW 43.83B.300 through 43.83B.345 shall be subject to all applicable laws and rules as though RCW 43.83B.300 through 43.83B.345 had not existed. [1977 1st ex.s. c 1 § 6.]

43.83B.330 Rules. (1) The department of ecology shall adopt such rules as are necessary and appropriate to carry out the powers provided in RCW 43.83B.300 through 43.83B.385, 43.83B.901, and 43.83B.210.

(2) The department of social and health services shall adopt such rules as are necessary and appropriate to carry out the powers provided in RCW 43.83B.300 through 43.83B.385, 43.83B.901, and 43.83B.210. [1977 1st ex.s. c 1 § 7.]

43.83B.335 Civil penalties. The power is granted to the department of ecology to levy civil penalties of up to one hundred dollars per day for violation of any of the provisions of this chapter and chapters 90.03, 90.22, and 90.44 RCW, and rules, permits, and similar documents and regulatory orders of the department of ecology adopted or issued pursuant to such chapters. The procedures of RCW 90.48.144 shall be applicable to all phases of the levying of a penalty as well as review and appeal of the same. [1977 1st ex.s. c 1 § 8.]

43.83B.340 Temporary personnel. The department of ecology is authorized to employ necessary temporary personnel until September 30, 1977, in project-related fields, including, but not limited to, engineering, hydrology, geology, and natural or water resources, not to exceed five full time equivalent staff years to carry out the provisions of RCW 43.83B.300 through 43.83B.345. Such temporary personnel shall be funded only through the biennial appropriations to the department, and not by funds provided by RCW 43.83B.300 through 43.83B.385, 43.83B.901, and 43.83B.210. [1977 1st ex.s. c 1 § 9.]

43.83B.345 Rates of charges for water—Payment into bond redemption fund—Grants and loans—Contracts. (1) The department of ecology shall, by rule, establish rates of charges for all waters delivered from such facilities as constructed by the department with funds provided in RCW 43.83B.385 (2) or (3). Where the department provides water to public or municipal corporations or other governmental bodies having authority to distribute water, the payment for the water may be made pursuant to contract over a period not exceeding twenty-five years from the date of delivery. In all other cases, the department shall obtain payment for waters prior to its delivery to a purchaser. All payments received shall be deposited into the state emergency water projects bond redemption fund of 1977.

(2) Public bodies, eligible to obtain funds through grants or loans or combinations thereof under the provisions of RCW 43.83B.300 through 43.83B.345 and 43.83B.210 as now or hereafter amended, are authorized to enter into contracts with the department of ecology for the purpose of repaying loans authorized by RCW 43.83B.380 and 43.83B.385 and for the purpose of purchasing water under this section.

(3) The department of ecology is authorized to enter into appropriate contracts to ensure effective delivery of water and the operation and maintenance of facilities constructed pursuant RCW 43.83B.300 through 43.83B.385, 43.83B.901, and 43.83B.210. [1977 1st ex.s. c 1 § 10.]

43.83B.350 Loans or grants from department of ecology—Authorized—Limitations. See RCW 43.83B.210.

43.83B.355 Form, sale, conditions, etc. of bonds—"Water supply facilities for water withdrawal and distribution" defined. The state finance committee is authorized to prescribe the form of the bonds authorized in RCW 43.83B.300, 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.

As used in RCW 43.83B.300, and 43.83B.355 through 43.83B.375, the term "water supply facilities for water withdrawal and distribution" shall mean municipal, industrial, and agricultural water supply and distribution systems including, but not limited to, all equipment, utilities, structures, real property, and interest in and improvements on real property necessary for or incidental to the acquisition, construction, installation, improvement, or use of any water supply or distribution system furnishing water for agricultural, municipal or industrial purposes. [1977 1st ex.s. c 1 § 12.]

43.83B.360 Bond anticipation notes—Disposition of proceeds from sale of bonds and notes. At the time the state finance committee determines to issue such bonds authorized in RCW 43.83B.300, and 43.83B.355 through 43.83B.375 or a portion thereof, it may, pending the issuance thereof, 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". The proceeds from the sale of bonds and notes authorized by RCW 43.83B.300, and 43.83B.355 through 43.83B.375 shall be deposited in the state emergency water projects revolving account, hereby created in the general fund in the state treasury, and shall be used exclusively for the purposes specified in RCW 43.83B.300, and 43.83B.355 through 43.83B.375 and for the payment of expenses incurred in the issuance and sale of such bonds and notes: *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 state emergency water projects bond redemption fund of 1977 in the state treasury created by RCW 43.83B.370. [1977 1st ex.s. c 1 § 13.]

43.83B.365 Administration of proceeds from sale of bonds. The principal proceeds from the sale of the bonds authorized in RCW 43.83B.300, and 43.83B.355 through 43.83B.375 shall be administered by the director of the department of ecology. [1977 1st ex.s. c 1 § 14.]

43.83B.370 Retirement of bonds and notes from emergency water projects bond redemption fund—Remedies of bond holders. The state emergency water projects bond redemption fund of 1977, hereby created in the state treasury, shall be used for the purpose of the payment of interest on and retirement of the bonds and notes authorized to be issued by RCW 43.83B.300, and 43.83B.355 through 43.83B.375. The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months, to meet bond retirement and interest requirements. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1977 emergency water projects bond

redemption fund an amount equal to the amount certified by the state finance committee to be due on such payment date.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed herein. [1977 1st ex.s. c 1 § 15.]

43.83B.375 Bonds legal investment for public funds. The bonds authorized by RCW 43.83B.300, and 43.83B.355 through 43.83B.375 shall be a legal investment for all state funds under state control and all funds of municipal corporations. [1977 1st ex.s. c 1 § 16.]

43.83B.380 Appropriations to department of social and health services—Authorized projects—Conditions. There is hereby appropriated to the department of social and health services the sum of nine million seven hundred thirty-seven thousand dollars, or so much thereof as may be necessary, for the biennium ending June 30, 1977, from the general fund—state and local improvements revolving account—water supply facilities for the purposes authorized in RCW 43.83B.300 through 43.83B.345 and 43.83B.210 as now or hereafter amended relating to the emergency water conditions arising from the drought forecast for the summer and fall of 1977 affecting municipal and industrial water supply distribution facilities. Prior to the expenditure of funds for projects approved by the department, the department shall file a listing of the approved projects with the senate ways and means committee and the house appropriations committee.

(2) There is hereby appropriated to the department of social and health services the sum of five million three hundred twenty-seven thousand dollars, or so much thereof as may be necessary, for the biennium ending June 30, 1977, from the general fund—state and local improvements revolving account—water supply facilities to be expended for municipal and industrial water supply and distribution facility projects for which applications are in progress on March 25, 1977 and have arisen from the drought forecast for the summer and fall of 1977. Prior to the expenditure of funds for projects approved by the department, the department shall file a listing of the approved projects with the senate ways and means committee and the house appropriations committee.

The municipal and industrial water supply and distribution facilities receiving funds from the appropriations contained in this section shall comply with the eligible costs criteria, health and design standards, and contract performance requirements of the municipal and industrial funding program under chapter 43.83B RCW. All projects shall be evaluated by applying the said chapter's evaluation and prioritization criteria to insure that only projects related to water shortage problems receive funding. The projects funded shall be limited to those projects providing interties with adjacent utilities, an expanded source of supply, conservation projects which will conserve or maximize efficiency of the existing supply, or a new source of supply. No obligation to provide a grant for a project authorized under this section shall

be incurred after June 30, 1977. [1977 1st ex.s. c 1 § 17.]

43.83B.385 Appropriations to department of ecology—Authorized projects—Findings. (1) There is hereby appropriated to the department of ecology for the biennium ending June 30, 1977, from the state emergency water projects revolving account in the general fund, the sum of seven million dollars, or so much thereof as may be necessary, which shall be expended for the financing of the following agricultural water supply and distribution projects from surface water sources: Kennewick Irrigation District; Kittitas Reclamation District; Stemilt Irrigation District; Wenatchee Heights Reclamation District; and the Wenatchee Reclamation District.

(2) There is hereby appropriated to the department of ecology for the biennium ending June 30, 1977, from the state emergency water projects revolving account in the general fund, the sum of five million dollars, or so much thereof as may be necessary, which shall be expended for the financing and construction of agricultural water supply and distribution projects from ground water sources primarily in the Moxee-Ahtanum and Park Creek aquifer areas.

(3) There is hereby appropriated to the department of ecology for the biennium ending June 30, 1977, from the state emergency water supply revolving account in the general fund the sum of six million dollars, or so much thereof as may be necessary, which shall be expended for water withdrawal projects relating to ground and surface waters as provided for in subsections (1) and (2) of this section and for the financing and construction of agricultural water supply and distribution projects from ground and surface water sources which may become required by public bodies other than those identified in this section as a result of the drought forecast for the summer and fall of 1977.

The department may expend funds from the appropriations contained in subsections (1), (2), and (3) of this section to make loans or combinations of loans and grants to public bodies as defined in RCW 43.83B.050. The grant portion of a combination loan and grant to a public body for any project shall not exceed fifteen percent of the total amount received by such project under this section.

The department may expend funds from the appropriations contained in subsections (1), (2), and (3) of this section to make loans or combinations of loans and grants to public bodies as defined in RCW 43.83B.050 to satisfy the matching requirements of RCW 43.83B-.210 as now or hereafter amended.

Prior to the funding of any agriculture projects not specifically set forth in this section the department must make a formal finding that: An emergency water shortage condition exists; the project proposed for funding will alleviate the water shortage; the public body recipient of any funds has reasonable capability to repay the loan involved; and the water from the project will be used for a beneficial purpose as a substitute for water not available due to drought conditions. [1977 1st ex.s. c 1 § 18.]

43.83B.901 Severability—1977 1st ex.s. c 1. If any provision of this 1977 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. [1977 1st ex.s. c 1 § 19.]

Chapter 43.83C

RECREATION IMPROVEMENTS BOND ISSUE

Sections

43.83C.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.

43.83C.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the planning, acquisition, preservation, development, and improvement of recreation areas and facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of forty 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. [1977 1st ex.s. c 242 § 3; 1972 ex.s. c 129 § 2.]

Severability—1977 1st ex.s. c 242: See note following RCW 43.83A.020.

Chapter 43.83D

SOCIAL AND HEALTH SERVICES FACILITIES 1972 BOND ISSUE

Sections

43.83D.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.

43.83D.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the planning, acquisition, construction, and improvement of health and social service facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of twenty-five 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. [1977 1st ex.s. c 242 § 4; 1972 ex.s. c 130 § 2.]

Severability—1977 1st ex.s. c 242: See note following RCW 43.83A.020.

Chapter 43.83H

SOCIAL AND HEALTH SERVICES FACILITIES— BOND ISSUES

Sections

1977 BOND ISSUE

43.83H.100	General obligation bonds—Authorized—Issuance, sale, terms, etc.
43.83H.110	"Social and health services facilities" defined.
43.83H.120	Anticipation notes—Proceeds of bonds and notes.
43.83H.130	Administration of proceeds.
43.83H.140	Retirement of bonds from social and health services construction bond redemption fund of 1976—Source—Remedies of bond holders.
43.83H.150	Legal investment for public funds.
43.83H.910	Severability—1977 1st ex.s. c 342.

1977 BOND ISSUE

43.83H.100 General obligation bonds—Authorized—Issuance, sale, terms, etc. For the purpose of providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, improving, and equipping of social and health services facilities, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of twenty million dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by RCW 43.83H.100 through 43.83H.150 and 43.83H.910 shall be offered for sale without prior legislative appropriation, and these 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.

The state finance committee is authorized to prescribe the form of such bonds, 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. [1977 1st ex.s. c 342 § 1.]

43.83H.110 "Social and health services facilities" defined. As used in RCW 43.83H.100 through 43.83H.150 and 43.83H.910, the term "social and health services facilities", shall include, without limitation, facilities for use in adult correction programs, juvenile rehabilitation programs, mental health programs, and developmental disabilities programs for which an appropriation is made from the state social and health services construction account in the general fund by chapter 338, Laws of 1977 1st ex. sess., the capital appropriations act, or subsequent capital appropriations acts. [1977 1st ex.s. c 342 § 2.]

43.83H.120 Anticipation notes—Proceeds of bonds and notes. At the time the state finance committee determines to issue such bonds authorized in RCW 43.83H.100 or a portion thereof, it may, pending the issuance thereof, 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". The proceeds from the sale of bonds and notes authorized by RCW 43.83H.100 through 43.83H.150 and 43.83H.910 shall be deposited in the state social and health services construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.83H.100 through 43.83H.150 and 43.83H.910 and for the payment of expenses incurred in the issuance and sale of such bonds and notes: *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 state social and health services bond redemption fund of 1976 in the state treasury. [1977 1st ex.s. c 342 § 3.]

43.83H.130 Administration of proceeds. The proceeds from the sale of the bonds authorized in RCW 43.83H.100 through 43.83H.150 and 43.83H.910 and deposited in the state social and health services construction account in the general fund shall be administered by the secretary of the department of social and health services. [1977 1st ex.s. c 342 § 4.]

43.83H.140 Retirement of bonds from social and health services construction bond redemption fund of 1976—Source—Remedies of bond holders. The state social and health services bond redemption fund of 1976 in the state treasury shall be used for the purpose of the payment of interest on and retirement of the bonds and notes authorized to be issued by RCW 43.83H.100 through 43.83H.150 and 43.83H.910. The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months, to meet bond retirement and interest requirements. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1976 state social and health services bond redemption fund an amount equal to the amount certified by the state finance committee to be due on such payment date.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed herein. [1977 1st ex.s. c 342 § 5.]

43.83H.150 Legal investment for public funds. The bonds authorized by RCW 43.83H.100 through 43.83H.150 and 43.83H.910 shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1977 1st ex.s. c 342 § 6.]

43.83H.910 Severability—1977 1st ex.s. c 342. 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. [1977 1st ex.s. c 342 § 7.]

Chapter 43.83I

DEPARTMENT OF FISHERIES—BOND ISSUES.

Sections

1977 BOND ISSUE

43.83I.100	General obligation bonds—Authorized—Issuance, sale, terms, etc.
43.83I.110	Bond anticipation notes—Proceeds of bonds and interest on notes.
43.83I.120	Bonds and notes—Powers and duties of state finance committee.
43.83I.130	Proceeds deposited in fisheries capital projects account—Exception.
43.83I.140	1977 fisheries bond retirement fund created.
43.83I.150	Legal investment for public funds.
43.83I.910	Severability—1977 1st ex.s. c 343.

1977 BOND ISSUE

43.83I.100 General obligation bonds—Authorized—Issuance, sale, terms, 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 department of fisheries, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of five million dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by RCW 43.83I.100 through 43.83I.150 and 43.83I.910 shall be offered for sale without prior legislative appropriation, and these 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. [1977 1st ex.s. c 343 § 1.]

43.83I.110 Bond anticipation notes—Proceeds of bonds and interest on notes. When the state finance committee has determined to issue such general obligation bonds or a portion thereof as authorized in RCW 43.83I.100, 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 the principal and redemption premium, if any, and interest on such notes shall be applied thereto when such bonds are issued. [1977 1st ex.s. c 343 § 2.]

43.83I.120 Bonds and notes—Powers and duties of state finance committee. 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 43.83I.100 and 43.83I.110, 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. [1977 1st ex.s. c 343 § 3.]

43.83I.130 Proceeds deposited in fisheries capital projects account—Exception. Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 43.83I.110, the proceeds from the sale of the bonds and/or bond anticipation notes authorized in RCW 43.83I.100 through 43.83I.150, 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 fisheries capital projects account of the general fund in the state treasury. All such proceeds shall be used exclusively for the purposes specified in RCW 43.83I.100 through 43.83I.150 and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes. [1977 1st ex.s. c 343 § 4.]

43.83I.140 1977 fisheries bond retirement fund created. The 1977 fisheries bond retirement fund is hereby created in the state treasury for the purpose of the payment of the principal of and interest on the bonds authorized to be issued pursuant to RCW 43.83I.100 through 43.83I.150.

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. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1977 fisheries bond retirement fund an amount equal to the amount certified by the state finance committee to be due on such payment date. [1977 1st ex.s. c 343 § 5.]

43.83I.150 Legal investment for public funds. The bonds authorized in RCW 43.83I.100 through 43.83I.150 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1977 1st ex.s. c 343 § 6.]

43.83I.910 Severability—1977 1st ex.s. c 343. 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. [1977 1st ex.s. c 343 § 7.]

Chapter 43.84

INVESTMENTS AND INTERFUND LOANS

Sections

43.84.110	Repayment of loans—Interest.
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43.84.150 Authorized investments for state finance committee, boards and trustees—Power of trustees of funds to authorize state finance committee and the director of retirement systems to make investments, etc.

43.84.110 Repayment of loans—Interest. When any such loan is made, the state treasurer shall charge the receiving fund with the loan and with interest thereon at the depositary interest rate as fixed by the state finance committee and shall repay such loan to the fund from which it was borrowed, at such times and in such amounts as there shall be moneys in the borrowing fund not required to meet the current expenditures payable therefrom, sufficient to repay the loan or a part thereof. [1977 c 17 § 2; 1973 c 95 § 2; 1965 c 8 § 43.84.110. Prior: 1915 c 15 § 2; RRS § 5508.]

43.84.150 Authorized investments for state finance committee, boards and trustees—Power of trustees of funds to authorize state finance committee and the director of retirement systems to make investments, etc. Except where otherwise specifically provided by law, the state finance committee and the director of retirement systems with the approval of those boards otherwise responsible for the management of their respective funds shall have full power to invest and reinvest funds over which they have investment authority in the following classes of investments, and not otherwise, and to sell or exchange investments acquired in the exercise of that authority: *Provided*, That the method of granting approval to the state finance committee and the director of retirement systems shall be determined by each board, respectively, in its sole discretion:

(1) Bonds, notes, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States, or those guaranteed by, or for which the credit of the United States is pledged for the payment of the principal and interest or dividends thereof, or the obligation of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system.

(2) Bonds, debentures, notes, or other obligations issued, assumed, or unconditionally guaranteed by the international bank for reconstruction and development, the inter-American development bank, the Asian development bank, or by the federal national mortgage association; in addition to bonds, debentures, or other obligations issued by a federal land bank, or by a federal intermediate credit bank, under the act of congress of July 17, 1961, known as the "Federal Farm Loan Act", (as from time to time amended).

(3) First mortgages on unencumbered real property which are insured by the federal housing administration under the national housing act (as from time to time amended) or are guaranteed by the veterans' administration under the servicemen's readjustment act of 1944 (as from time to time amended), or are otherwise insured or guaranteed by the United States of America, or by an agency or instrumentality thereof to the extent that the investor protection thereby given is essentially

the same as that as provided under the foregoing federal enactments.

(4) Conventional fee simple or leasehold first mortgages on real property located within the state of Washington.

(5) Bonds or other evidences of indebtedness of this state or a duly authorized authority or agency thereof; bonds, notes, or other obligations of any municipal corporation, political subdivision or state supported institution of higher learning of this state, issued pursuant to the laws of this state; obligations of any public housing authority or urban redevelopment authority issued pursuant to the laws of this state relating to the creation or operation of a public housing or urban redevelopment authority.

(6) Bonds, notes, or other obligations issued, guaranteed or assumed by any other state or municipal or political subdivision thereof.

(7) Bonds, debentures, notes or other full faith and credit obligations issued, guaranteed, or assumed as to both principal and interest by the government of the Dominion of Canada, or by any province of Canada, or by any city of Canada, which has a population of not less than one hundred thousand inhabitants: *Provided*, That the principal and interest thereof shall be payable in United States funds, either unconditionally or at the option of the holder: *Provided further*, That such securities are rated "A" or better by at least one nationally recognized rating agency.

(8) Bonds, debentures, notes, or other obligations of any corporation duly organized and operating in any state of the United States: *Provided*, That such securities are rated "A" or better by at least one nationally recognized rating agency.

(9) Capital notes, debentures, or other obligations of any national or state commercial or mutual savings bank doing business in the United States of America.

(10) Equipment trust certificates issued by any corporation duly organized and operating in any state of the United States of America: *Provided*, That the bonds or debentures of the company are rated "A" or better by at least one nationally recognized rating agency.

(11) Commercial paper: *Provided*, That it is given the highest attainable rating by at least two nationally recognized rating agencies.

(12) Subject to the limitations hereinafter provided, those funds created under chapters 2.10, 2.12, 41.24, 41.26, 41.32, 41.40, and 43.43 RCW and the accident reserve fund created by RCW 51.44.010 may be invested in the common or preferred stock or shares, whether or not convertible as well as convertible bonds and debentures of corporations created or existing under the laws of the United States, or any state, district or territory thereof: *Provided*, That:

(a) The state finance committee and the director of retirement systems may, with the approval of the respective boards, either have the finance committee's staff manage the classes of investments defined by subsection (12) of this section or they may contract with an investment counseling firm or firms or the trust department of a national or state chartered commercial bank having its principal office or a branch in this state. The

state finance committee and the director of retirement systems shall receive advice which shall become part of the official minutes of the next succeeding meeting of the committee and respective boards. No investment counseling firm shall be engaged in buying, selling or otherwise marketing securities in which commissions or profit credits arising from these activities accrue to the firm during the time of its employment by the boards. Nothing in the preceding sentence shall be deemed to apply to the marketing of bonds, notes or other obligations of the United States or any agency thereof, or of a state or any municipal or political subdivision thereof by a bank in the normal course of its business.

(b) Stock investments to include convertible preferred stock investments, and investments in convertible bonds and debentures shall not exceed twenty-five percent of the total investments (cost basis) of the system: *Provided*, That in the case of the accident reserve fund created by RCW 51.44.030 such stock investments shall not exceed ten percent of the total investments.

(c) Investment in the stock of any one corporation shall not exceed five percent of the common shares outstanding.

(d) No single common stock investment, based on cost, may exceed two percent of the assets of the total investments (cost basis) of the system.

(e) Such corporation has paid a cash dividend on its common stock in at least eight of the ten years and in each of the last three years next preceding the date of investment.

(f) In the case of convertible bond, debenture, and convertible preferred stock investments, the common stock into which such investments are convertible otherwise qualifies as an authorized investment under the provisions of this section.

(13) Investments in savings and loan associations organized under federal or state law, insured by the federal savings and loan insurance corporation, and operating in this state, including investment in their savings accounts, deposit accounts, bonds, debentures and other obligations or securities (except capital stock) which are insured or guaranteed by an agency of the federal government or by a private corporation approved by the state insurance commissioner and licensed to insure real estate loans in the state of Washington; savings deposits in commercial banks and mutual savings banks organized under federal or state law, insured by the federal deposit insurance corporation, and operating in this state: *Provided*, That the investment of any one fund in the foregoing institutions shall not exceed the amount insured or guaranteed.

(14) Appropriate contracts of life insurance or annuities from insurers duly organized to do business in the state of Washington, if and when such purchase or purchases would in the judgment of the board be appropriate or necessary to carry out the purposes of this chapter.

(15) Any obligation, equipment trust certificate, or interest in any obligation arising out of any transaction involving the sale of any equipment by, or the lease of

any equipment from, any corporation engaged in the business of transportation or manufacturing, with its principal place of business located in Washington state, or by or from any wholly owned subsidiary of any such corporation, provided that either (a) the obligation shall be secured by ownership of the equipment or by a first mortgage or other security interest creating a first lien on such equipment or (b) the obligation shall be guaranteed by the United States government or any agency or instrumentality thereof or by a foreign government or any agency or instrumentality thereof or by any province of Canada.

(16) The sale of call options or the repurchase of sold call options where such options are fully covered by common stocks owned by the funds.

Subject to the above limitations, the trustees of the several funds shall authorize the state finance committee to make purchases, sales, exchanges, investments, and reinvestments, of any of the securities and investments in which any of the funds created herein shall have been invested, as well as the proceeds of said investments and any money belonging to said funds. [1977 1st ex.s. c 251 § 5; 1975-'76 2nd ex.s. c 17 § 2. Prior: 1975 1st ex.s. c 252 § 1; 1975 1st ex.s. c 81 § 1; 1973 1st ex.s. c 103 § 12.]

Severability—1973 1st ex.s. c 103: See note following RCW 2.10.080.

Chapter 43.85

STATE DEPOSITARIES

Sections

43.85.241

Deposits and rate of interest—Distribution of interest credited to deposit interest account.

43.85.241 Deposits and rate of interest—Distribution of interest credited to deposit interest account. On or before July 20 of each year, the state treasurer shall distribute all interest credited to the deposit interest account as of June 30, which account is hereby established within the state general fund. Said account shall be divided among the various funds from which such investments and investment deposits are made, in proportion to the respective amounts thereof. Interest so distributed shall be credited to the proper fund in the fiscal year in which it was collected: *Provided*, That interest earned on the balances of the forest reserve fund, the liquor excise tax fund, the tort claims revolving fund, the deposit interest account, the suspense fund, the undistributed receipts fund, the state payroll revolving fund, the agency payroll revolving fund, the agency vendor payment revolving fund, and the local sales and use tax revolving fund shall be credited to the state treasurer's service fund. [1977 c 17 § 1; 1973 c 27 § 1; 1971 ex.s. c 72 § 2.]

State treasurer's service fund: RCW 43.08.190.

Chapter 43.88
BUDGET AND ACCOUNTING

Sections

43.88.030	Content of the budget document or documents— Separate budget document or schedules— Changes.
43.88.060	Legislative review of budget document and budget bill or bills—Time for submission.
43.88.195	Establishment of accounts or funds outside treasury without permission of director of the office of pro- gram planning and fiscal management prohibited.
43.88.280	Fiscal responsibilities of state officers and employ- ees—"State officer or employee" defined.
43.88.290	Fiscal responsibilities of state officers and employ- ees—Prohibitions relative to appropriations and expenditures.
43.88.300	Fiscal responsibilities of state officers and employ- ees—Violations—Civil penalties—Forfeiture.
43.88.310	Fiscal responsibilities of state officers and employ- ees—Duties of legislative auditor, attorney general.
43.88.320	Fiscal responsibilities of state officers and employ- ees—Civil penalties additional to other penalties.
43.88.500	State boards, commissions, councils and commit- tees—Legislative finding and declaration.
43.88.505	State boards, commissions, councils and commit- tees—Compilation of list, information.
43.88.510	State boards, commissions, councils and commit- tees—Submission of list and data to legislature.
43.88.515	State boards, commissions, councils and commit- tees—Agencies to submit lists, information.
43.88.903	Severability—1977 c 23.

Federal funds and programs—Reports to the legislature: RCW 43.06.140.

43.88.030 Content of the budget document or documents—Separate budget document or schedules—Changes. (1) The budget document or documents shall consist of the governor's budget message which shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the state for the ensuing fiscal period and shall describe in connection therewith the important features of the budget. The message shall set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor shall deem to be useful to the legislature. The budget document or documents shall set forth a proposal for expenditures in the ensuing fiscal period based upon anticipated revenues for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document: *Provided*, That the governor may additionally submit, as an appendix to each agency budget or to the budget document or documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.

The budget document or documents shall also contain:

(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, and those anticipated for the ensuing biennium;

(b) Cash surplus or deficit, by fund, to the extent provided by RCW 43.88.040 and 43.88.050;

(c) Such additional information dealing with expenditures, revenues, workload, performance and personnel as the legislature may direct by law or concurrent resolution;

(d) Such additional information dealing with revenues and expenditures as the governor shall deem pertinent and useful to the legislature;

(e) Tabulations showing expenditures classified by fund, function, activity and object.

(2) The budget document or documents shall include detailed estimates of all anticipated revenues applicable to proposed operating or capital expenditures and shall also include all proposed operating or capital expenditures. The total of anticipated revenues shall equal or exceed the total of proposed applicable expenditures. The budget document or documents shall further include:

(a) Interest, amortization and redemption charges on the state debt;

(b) Payments of all reliefs, judgments and claims;

(c) Other statutory expenditures;

(d) Expenditures incident to the operation for each agency;

(e) Revenues derived from agency operations;

(f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium.

(3) A separate budget document or schedule may be submitted consisting of:

(a) Expenditures incident to current or pending capital projects and to proposed new capital projects, relating the respective amounts proposed to be raised therefor by appropriations in the budget and the respective amounts proposed to be raised therefor by the issuance of bonds during the fiscal period;

(b) A capital program consisting of proposed capital projects for at least the two fiscal periods succeeding the next fiscal period. The capital program shall include for each proposed project a statement of the reason or purpose for the project along with an estimate of its cost;

(c) Such other information bearing upon capital projects as the governor shall deem to be useful to the legislature;

(d) Such other information relating to capital improvement projects as the legislature may direct by law or concurrent resolution.

(4) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and personnel shall be made in the format of any budget document presented to the legislature relative to the format of the budget document which was presented to the previous regular session of the legislature without prior legislative concurrence. Prior legislative concurrence shall consist of (a) a favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by members of the legislative budget committee if the legislature is not in session. [1977 1st ex.s. c 247 § 1; 1973 1st ex.s. c 100 § 3; 1965 c 8 § 43.88.030. Prior: 1959 c 328 § 3.]

43.88.060 Legislative review of budget document and budget bill or bills—Time for submission. The governor shall submit the budget document for the 1975–77 biennium and each succeeding biennium to the legislature no later than the twentieth day of December in the year preceding the session during which the budget is to be considered: *Provided*, That where a budget document is submitted for a fiscal period other than a biennium, such document shall be submitted no less than twenty days prior to the first day of the session at which such budget document is to be considered. The governor shall also submit a budget bill or bills which for purposes of this chapter is defined to mean the appropriations proposed by the governor as set forth in the budget document. Such representatives of agencies as have been designated by the governor for this purpose shall, when requested, by either house of the legislature, appear to be heard with respect to the budget document and the budget bill or bills and to supply such additional information as may be required. [1977 1st ex.s. c 247 § 2; 1973 1st ex.s. c 100 § 4; 1965 c 8 § 43.88.060. Prior: 1959 c 328 § 6.]

43.88.195 Establishment of accounts or funds outside treasury without permission of director of the office of program planning and fiscal management prohibited. After August 11, 1969, no state agency, state institution, state institution of higher education, which shall include all state universities, regional universities, The Evergreen State College, and community colleges, shall establish any new accounts or funds which are to be located outside of the state treasury: *Provided*, That the office of program planning and fiscal management shall be authorized to grant permission for the establishment of such an account or fund outside of the state treasury only when the requesting agency presents compelling reasons of economy and efficiency which could not be achieved by placing such funds in the state treasury. When the director of the office of program planning and fiscal management authorizes the creation of such fund or account, he shall forthwith give written notice of the fact to the standing committees on ways and means of the house and senate. [1977 1st ex.s. c 169 § 109; 1975 1st ex.s. c 293 § 9; 1969 ex.s. c 248 § 1.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

43.88.280 Fiscal responsibilities of state officers and employees—"State officer or employee" defined. As used in RCW 43.88.290 and 43.88.300 the term "state officer or employee" includes the members of the governing body of any state agency, as state agency is defined in RCW 43.88.020(4) and those generally known as executive management but excludes nonsupervisory state employees covered by civil service under chapters 41.06 and 28B.16 RCW. [1977 1st ex.s. c 320 § 1.]

Effective date—1977 1st ex.s. c 320: "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 July 1, 1977." [1977 1st ex.s. c 320 § 6.]

43.88.290 Fiscal responsibilities of state officers and employees—Prohibitions relative to appropriations and expenditures. No state officer or employee shall intentionally or negligently: Over-expend or over-encumber any appropriation made by law; fail to properly account for any expenditures by fund, program, or biennium; or expend funds contrary to the terms, limits, or conditions of any appropriation made by law. [1977 1st ex.s. c 320 § 2.]

Effective date—1977 1st ex.s. c 320: See note following RCW 43.88.280.

43.88.300 Fiscal responsibilities of state officers and employees—Violations—Civil penalties—Forfeiture. (1) Where there is reason to believe that a present or former state officer or employee has violated or threatens to violate RCW 43.88.290, the attorney general may initiate an appropriate civil action for the enforcement of RCW 43.88.280 through 43.88.320 or to prevent any such violation. The action may be brought in the county where the alleged violator resides, or the county where the violation is alleged to have occurred or is threatened.

(2) For each violation of RCW 43.88.290 the attorney general shall seek to recover and the court may award the following damages on behalf of the state of Washington:

(a) From each person found in violation of RCW 43.88.290 a civil penalty in the amount of five hundred dollars, or all costs, including reasonable attorney's fees incurred by the state in said action, whichever is greater;

(b) Any damages sustained by the state as a result of the conduct constituting said violation.

In addition to the other penalties contained in this section, judgment against any person, other than an elected official, for violating RCW 43.88.290 may include a declaration of forfeiture of such person's office or employment, to take effect immediately. [1977 1st ex.s. c 320 § 3.]

Effective date—1977 1st ex.s. c 320: See note following RCW 43.88.280.

43.88.310 Fiscal responsibilities of state officers and employees—Duties of legislative auditor, attorney general. (1) The legislative auditor, with the concurrence of the legislative budget committee, may file with the attorney general any audit exceptions or other findings of any performance audit, management study, or special report prepared for the legislative budget committee, any standing or special committees of the house or senate, or the entire legislature which indicate a violation of RCW 43.88.290.

(2) The attorney general shall promptly review each filing received from the legislative auditor and proceed to act thereon as provided in RCW 43.88.300. If for any reason the attorney general is unable to proceed the attorney general shall report this fact and the reasons therefor to the legislative budget committee. [1977 1st ex.s. c 320 § 4.]

Effective date—1977 1st ex.s. c 320: See note following RCW 43.88.280.

43.88.320 Fiscal responsibilities of state officers and employees—Civil penalties additional to other penalties. The civil penalties provided by RCW 43.88.280 through 43.88.320 are in addition to any other penalties which may be provided by law. [1977 1st ex.s. c 320 § 5.]

Effective date—1977 1st ex.s. c 320: See note following RCW 43.88.280.

43.88.500 State boards, commissions, councils and committees—Legislative finding and declaration. The legislature finds that members of boards, commissions, councils, and committees in state government make a valuable contribution to the public welfare.

Nevertheless, the legislature also finds that the continued proliferation of both statutory and nonstatutory groups of this nature without effective, periodic review of existing groups can result in wasteful duplication of effort, fragmentation of administrative authority, lack of accountability, plus an excessive and frequently hidden financial burden on the state.

The legislature further finds that effective legislative oversight and review of boards, commissions, councils, and committees is frustrated by a lack of current and reliable information on the status and activities of such groups.

The legislature declares that legislative oversight and overall accountability in state government can be significantly improved by creating in the office of program planning and fiscal management a central clearinghouse for information on boards, commissions, councils, and committees. [1977 c 23 § 1.]

43.88.505 State boards, commissions, councils and committees—Compilation of list, information. (1) The director of program planning and fiscal management shall compile, and revise within ninety days after the beginning of each biennium, a current list of all permanent and temporary, statutory and nonstatutory boards, commissions, councils, committees, and other groups of similar nomenclature that are established by the executive, legislative, or judicial branches of state government and whose members are eligible to receive travel expenses for their meetings in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) Such list shall include but not be limited to any such group which:

(a) Functions primarily in an advisory, planning, or coordinating capacity;

(b) Performs advertising, research, promotional, or marketing services for a specific business, industry, or occupation; or

(c) Performs licensing, regulatory, or quasi-judicial functions, adopts rules, or has responsibility for the administration or policy direction of a state agency or program.

(3) Such list shall contain the following information for each board, commission, council, committee, or other group of similar nomenclature:

(a) The legal authorization for the creation of the group;

(b) The number of members on the group, the appointing authority, and the agency to which the group reports;

(c) The number of meetings held during the preceding biennium;

(d) A brief summary of the primary responsibilities of the group;

(e) The total estimated cost of operating the group during the preceding biennium and the estimated cost of the group during the ensuing biennium. Such cost data shall include the estimated administrative expenses of the group as well as the estimated cost to an agency of providing full time equivalent or part time supporting staff to the group; and

(f) The source of funding for the group. [1977 c 23 § 2.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

43.88.510 State boards, commissions, councils and committees—Submission of list and data to legislature. Not later than ninety days after the beginning of each biennium, the director of program planning and fiscal management shall submit the compiled list of boards, commissions, councils, and committees, together with the information on each such group, that is required by RCW 43.88.505 to:

(1) The speaker of the house and the president of the senate for distribution to the appropriate standing committees; and

(2) The legislative budget committee. [1977 c 23 § 3.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

43.88.515 State boards, commissions, councils and committees—Agencies to submit lists, information. (1) In order to facilitate the compilation of data required by RCW 43.88.505, each agency of the executive, legislative, and judicial branches of state government shall submit to the director of program planning and fiscal management a current list of the permanent and temporary, statutory and nonstatutory boards, commissions, councils, committees, and other groups of similar nomenclature that report to, or are involved in the operation of, the agency and whose members are eligible to receive travel expenses for their meetings in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) Such list shall contain the administrative and cost information for each group that is prescribed in RCW 43.88.505(3).

(3) The director of program planning and fiscal management shall establish guidelines and a format for agencies to follow in submitting information on boards, commissions, councils, and committees. [1977 c 23 § 4.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

43.88.903 Severability—1977 c 23. 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. [1977 c 23 § 5.]

Chapter 43.88A

LEGISLATIVE FISCAL NOTES

Sections

43.88A.010	Legislative declaration.
43.88A.020	Fiscal notes—Preparation—Contents—Duties of office of financial management.
43.88A.030	Fiscal notes—Distribution.
43.88A.040	Fiscal notes—Preparation upon request of any legislator.
43.88A.900	Construction of chapter.

43.88A.010 Legislative declaration. The legislature hereby recognizes the necessity of developing a uniform and coordinated procedure for determining the expected fiscal impact of bills and resolutions on state government. The legislature also recognizes that developing such statements of fiscal impact, which shall be known as fiscal notes, requires the designation of a state agency to be principally responsible therefor. [1977 1st ex.s. c 25 § 1.]

43.88A.020 Fiscal notes—Preparation—Contents—Duties of office of financial management. The office of program planning and fiscal management shall, in cooperation with appropriate legislative committees and legislative staff, establish a procedure for the provision of fiscal notes on the expected impact of bills and resolutions which increase or decrease or tend to increase or decrease state government revenues or expenditures. Such fiscal notes shall indicate by fiscal year the impact for the remainder of the biennium in which the bill or resolution will first take effect as well as a cumulative forecast of the fiscal impact for the succeeding four fiscal years.

In establishing the fiscal impact called for pursuant to this chapter, the office of program planning and fiscal management shall coordinate the development of fiscal notes with all state agencies affected. [1977 1st ex.s. c 25 § 2.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

43.88A.030 Fiscal notes—Distribution. When a fiscal note is prepared and approved as to form, accuracy, and completeness by the office of program planning and fiscal management, which depicts the expected

fiscal impact of a bill or resolution, copies shall be filed immediately with:

(1) The chairperson of the committee to which the bill or resolution was referred upon introduction in the house of origin;

(2) The senate committee on ways and means, or its successor;

(3) The house committees on revenue and appropriations, or their successors; and

(4) The legislative budget committee.

Whenever possible, such fiscal note shall be provided prior to or at the time the bill or resolution is first heard by the committee of reference in the house of origin. [1977 1st ex.s. c 25 § 3.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

43.88A.040 Fiscal notes—Preparation upon request of any legislator. The office of program planning and fiscal management shall also provide a fiscal note on any legislative proposal at the request of any legislator. Such fiscal note shall be returned to the requesting legislator, and copies shall be filed with the appropriate legislative committees pursuant to RCW 43.88A.030 at the time such proposed legislation is introduced in either house. [1977 1st ex.s. c 25 § 4.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

43.88A.900 Construction of chapter. Nothing in this chapter shall prevent either house of the legislature from acting on any bill or resolution before it as otherwise provided by the state Constitution, by law, and by the rules and joint rules of the senate and house of representatives, nor shall the lack of any fiscal note as provided in this chapter or any error in the accuracy thereof affect the validity of any measure otherwise duly passed by the legislature. [1977 1st ex.s. c 25 § 5.]

Chapter 43.92

GEOLOGICAL SURVEY

Sections

43.92.030	Repealed.
43.92.050	Repealed.

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

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

Chapter 43.94

OCEANOGRAPHIC COMMISSION

Oceanographic commission, declaration of purpose relating to study of liquefied natural gas. "The legislature finds and declares that the safe and prompt delivery of energy producing fuels is of paramount importance to the economy of the state. Recognizing the complex problems to be solved and the hazards to be averted as well as the potential for the substantial benefits to be achieved makes apparent the need for a study to determine the safety and jurisdictional problems of typical liquefied natural gas ports, liquefied petroleum gas ports, and liquefied natural gas regasification sites on the waters of the state of Washington. It is, therefore, the declared policy and intent of this legislation to fund an initial study of the matter." [1977 1st ex.s. c 315 § 1.]

Oceanographic commission to conduct liquefied natural gas and liquefied petroleum gas hazards management study. "(1) The oceanographic commission shall conduct a liquefied natural gas and liquefied petroleum gas hazards management study to determine:

(a) The nature of typical transport and port facilities used to receive marine shipments of liquefied natural gas and liquefied petroleum gas and facilities for subsequent regasification of liquefied natural gas;

(b) Representative sites for liquefied natural gas and liquefied petroleum gas port facilities based upon the size of vessels and harbor facilities and in terms of safely dealing with the hazardous properties of liquefied natural gas and liquefied petroleum gas;

(c) The hazardous properties of liquefied natural gas and liquefied petroleum gas and subsequent safeguards which the state may require in liquefied natural gas and liquefied petroleum gas port facilities;

(d) The responsibilities of federal, state, and local governments in siting and operating liquefied natural gas and liquefied petroleum gas port facilities and liquefied natural gas regasification facilities;

(e) Whether at the representative locations for the facility the state and local governments have the resources to effectively manage the hazards by such means as fire protection and security; and

(f) Any other areas of importance which the oceanographic commission feels would have an impact on a liquefied natural gas or a liquefied petroleum gas port facility or a liquefied natural gas regasification facility.

(2) After conducting a search for studies, reports, or other literature relating to liquefied natural gas and liquefied petroleum gas hazards management, the commission shall submit a report to the house and senate energy and utilities committees concerning the material available and the reasons for the commission's decision whether or not to proceed with the remainder of the study.

(3) The findings of this study shall be reported to the legislature by the second Monday in January, 1979." [1977 1st ex.s. c 315 § 2.]

Chapter 43.97

COLUMBIA RIVER GORGE COMMISSION

Sections

43.97.005 Legislative finding and declaration.

43.97.005 Legislative finding and declaration. The legislature finds that the unique esthetic quality of a portion of the Columbia River Gorge is among the most valuable of the state's natural resources and that there is great concern throughout the state relating to its utilization, protection, preservation, and restoration. The legislature, therefore, declares that portion of the Columbia River Gorge beginning at the western-most boundary of the Columbia River Gorge as described in RCW 43.97-.090 and extending easterly to include all of Section 17 and the west halves of Sections 9 and 4 in Township 2 North, Range 13 East, to be an area of state-wide significance, wherein preference shall be given to uses which:

- (1) Recognize and protect the state-wide interest.
- (2) Result in long term rather than short term benefit.

- (3) Protect the resources and ecology of the Gorge.
- (4) Increase public access to publicly owned areas.
- (5) Increase recreational opportunities for the public.
- (6) Explore economic utilization.

The legislature further declares that all agencies of state and local government, shall, in their planning, management, and issuance of permits and variances, give full consideration to the environmental protection and economic utilization of the Columbia River Gorge, and the best interests of the state and people in general, in conformity with the plan to be prepared pursuant to RCW 43.97.030. [1977 1st ex.s. c 132 § 1; 1975 1st ex.s. c 48 § 4.]

Chapter 43.101

CRIMINAL JUSTICE TRAINING
COMMISSION—EDUCATION AND TRAINING
STANDARDS BOARDS

Sections

43.101.010	Definitions.
43.101.200	Law enforcement personnel—Basic law enforcement training required—Commission to provide.
43.101.210	Criminal justice training costs—Assessments on bail forfeitures—Criminal justice training account created.

43.101.010 Definitions. When used in this chapter:

(1) The term "commission" means the Washington state criminal justice training commission.

(2) The term "boards" means the education and training standards boards, the establishment of which are authorized by this chapter.

(3) The term "criminal justice personnel" means any person who serves in a county, city, state, or port commission agency engaged in crime prevention, crime reduction, or enforcement of the criminal law.

(4) The term "law enforcement personnel" means any public employee or volunteer having as a primary function the enforcement of criminal laws in general or any employee or volunteer of, or any individual commissioned by, any municipal, county, state, or combination thereof, agency having as its primary function the enforcement of criminal laws in general as distinguished from an agency possessing peace officer powers, the primary function of which is the implementation of specialized subject matter areas. For the purposes of this subsection "primary function" means that function to which the greater allocation of resources is made.

(5) The term "correctional personnel" means any employee or volunteer who by state, county, municipal, or combination thereof, statute has the responsibility for the confinement, care, management, training, treatment, education, supervision, or counseling of those individuals whose civil rights have been limited in some way by legal sanction.

(6) The term "judicial personnel" means any judge, employee, or volunteer of any municipal, district, or superior court and any justice, employee, or volunteer of the state appellate court or the state supreme court. [1977 1st ex.s. c 212 § 1; 1974 ex.s. c 94 § 1.]

43.101.200 Law enforcement personnel—Basic law enforcement training required—Commission to provide. (1) All law enforcement personnel, except volunteers, and reserve officers whether paid or unpaid, initially employed on or after January 1, 1978, shall engage in basic law enforcement training which complies with standards adopted by the commission pursuant to RCW 43.101.080 and 43.101.160. Such training shall be successfully completed during the first fifteen months of employment of such personnel unless otherwise extended or waived by the commission and shall be requisite to the continuation of such employment.

(2) The commission shall provide the aforementioned training together with necessary facilities, supplies, materials, and the board and room of noncommuting attendees for seven days per week. Additionally, the commission shall reimburse to participating law enforcement agencies with ten or less full-time commissioned patrol officers the cost of temporary replacement of each officer who is enrolled in basic law enforcement training: *Provided*, That such reimbursement shall include only the actual cost of temporary replacement not to exceed the total amount of salary and benefits received by the replaced officer during his training period. [1977 1st ex.s. c 212 § 2.]

43.101.210 Criminal justice training costs—Assessments on bail forfeitures—Criminal justice training account created. (1) Costs of criminal justice training shall be borne in part by those who necessitate the establishment and maintenance of the criminal justice system.

(2) In each instance of bail forfeiture attendant to any violation of a law of this state or an ordinance of a city or county except an ordinance relating to vehicles unlawfully left or parked, an assessment which shall be in addition to such bail forfeited shall be collected and forwarded within thirty days of receipt of such assessment by the clerk of the court, or the county treasurer, to the state treasurer to be deposited in an account within the state general fund to be known as the criminal justice training account, hereby created, funds from which shall be appropriated by law to the Washington State Criminal Justice Training Commission as established by chapter 43.101 RCW. The amount of the assessment shall be as follows:

- (a) When forfeiture is ten dollars to nineteen dollars and ninety-nine cents, three dollars;
- (b) When forfeiture is twenty dollars to thirty-nine dollars and ninety-nine cents, five dollars;
- (c) When forfeiture is forty dollars to fifty-nine dollars and ninety-nine cents, seven dollars;
- (d) When forfeiture is sixty dollars to ninety-nine dollars and ninety-nine cents, twelve dollars; and
- (e) When forfeiture is one hundred dollars or more, fifteen dollars.

(3) When any deposit of bail is made for a violation to which this section applies, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed in subsection (2) of this section.

(4) When bail is forfeited, the assessment prescribed in this section shall be forwarded to the state treasurer pursuant to this section. If bail is returned, the assessment made thereon shall also be returned. [1977 1st ex.s. c 212 § 3.]

Chapter 43.117

STATE COMMISSION ON ASIAN-AMERICAN AFFAIRS

Sections

43.117.910 Expiration of chapter.

43.117.910 Expiration of chapter. This chapter shall expire automatically on June 30, 1983, unless extended by law for an additional fixed period of the time. [1977 1st ex.s. c 297 § 1; 1974 ex.s. c 140 § 14.]

Effective date—1977 1st ex.s. c 297: "This 1977 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, 1977." [1977 1st ex.s. c 297 § 3.]

Chapter 43.125

AMERICAN REVOLUTION BICENTENNIAL COMMISSION

Sections

43.125.010 Repealed.
43.125.020 Powers and duties—Reports.
43.125.020 Powers and duties—Reports.
43.125.030 through 43.125.050 Repealed.
43.125.900 Repealed.

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

43.125.020 Powers and duties—Reports. (1) The commission shall prepare a comprehensive program for commemorating the bicentennial of the American revolution in Washington state and plan, encourage, develop, and coordinate observances and activities commemorating the historic events that are associated with the American revolution.

(2) In preparing its plans and program, the commission shall consider any related plans and programs developed by the national American revolution bicentennial commission and local and private groups, and it may designate special committees with representatives from such bodies to plan, develop, and coordinate such activities.

(3) In all planning, the commission shall give special emphasis to the ideas associated with the American revolution and to the involvement of local citizens, communities and areas so that the people of the state may, to the greatest practical extent, serve as participants in, rather than merely as observers of the commemoration.

(4) The commission may submit an annual report to the governor and the legislature which may include proposals for such legislation and administrative action as the commission considers necessary to carry out its recommendations. The governor shall transmit to the legislature any recommendations for legislation and a report of such administrative actions as may be taken by him. [1977 c 75 § 65; 1972 ex.s. c 76 § 2.]

Reviser's note: The amendment of this section by 1977 c 75 § 65 does not take cognizance of the section's repeal by 1977 1st ex.s. c 17 § 3.

43.125.020 Powers and duties—Reports. [1972 ex.s. c 76 § 2.] Repealed by 1977 1st ex.s. c 17 § 3.

Reviser's note: This section was also amended by 1977 c 75 § 65 without cognizance of the repeal thereof.

43.125.030 through 43.125.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

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

Chapter 43.131

WASHINGTON SUNSET ACT OF 1977

Sections

43.131.010	Short title.
43.131.020	Legislative declaration.
43.131.030	Definitions.
43.131.040	Reestablishment of state agency scheduled for termination—Review.
43.131.050	Legislative budget committee and office of financial management—Duties—Reports required.
43.131.060	Legislative budget committee review of regulatory entity—Factors for consideration.
43.131.070	Legislative budget committee review of a state agency other than a regulatory entity—Factors for consideration.
43.131.080	Committees of reference—Powers and duties.
43.131.090	Termination of state agency—Procedures—Employee transfers—Property disposition—Funds and moneys—Rules—Contracts.
43.131.100	Termination of state agency—Pending business—Savings.
43.131.110	Committees—Reference to include successor.
43.131.120	Select joint committee—Appointment—Duties.
43.131.130	Legislature—Powers unaffected by enactment of chapter.
43.131.140	Termination of certain programs.
43.131.900	Expiration of chapter—Exception.

43.131.010 Short title. This chapter may be known and cited as the Washington Sunset Act of 1977. [1977 1st ex.s. c 289 § 1.]

Severability—1977 1st ex.s. c 289: "If any provision of this 1977 amendatory act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the 1977 amendatory act which can be given effect without the invalid provision or application, and to this end the provisions of this 1977 amendatory act are declared severable." [1977 1st ex.s. c 289 § 18.] This annotation applies to chapter 43.131 RCW and the 1977 amendment to RCW 43.06.010.

43.131.020 Legislative declaration. The state legislature finds that state agencies may fail to deliver services as effectively and efficiently as is expected by the general public and as originally contemplated by the legislature. It further finds that state government actions have produced a substantial increase in numbers of agencies, growth of programs, and proliferation of rules and regulations, and that the entire process has evolved without sufficient legislative and executive oversight, regulatory accountability, or a system of checks and balances. The legislature further finds that by establishing a system for the termination, continuation, or modification of state agencies, coupled with a system of scheduled review of such agencies, it will be in a better position to evaluate the need for the continued existence of existing and future state agencies. The legislature recognizes that the executive branch shares in this duty

and responsibility to assure that state government operates in an efficient, orderly, and responsive manner. [1977 1st ex.s. c 289 § 2.]

43.131.030 Definitions. As used in this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise.

(1) "Committees of reference" means the standing legislative committees designated by the respective rules committees of the senate and house of representatives to consider termination, modification, or reestablishment of state agencies pursuant to this chapter.

(2) "Person" includes every natural person, firm, partnership, corporation, association, or organization.

(3) "Regulatory entity" means any board, commission, agency, division, or other unit or subunit of state government which licenses or regulates one or more professions, occupations, industries, businesses, or other endeavors in the state of Washington.

(4) "State agency" includes every state office, department, board, commission, regulatory entity and agency of the state, and where provided by law, programs and activities involving less than the full responsibility of a state agency. [1977 1st ex.s. c 289 § 3.]

43.131.040 Reestablishment of state agency scheduled for termination—Review. Any state agency scheduled for termination by the processes provided in this chapter may be reestablished by the legislature for a period of time specified by law, but not to exceed six years. At the end of such period of time the legislature shall again review such state agency in a manner consistent with the provisions of this chapter and RCW 43.06.010 and reestablish, modify, or consolidate such state agency or allow it to be terminated. [1977 1st ex.s. c 289 § 4.]

43.131.050 Legislative budget committee and office of financial management—Duties—Reports required. The legislative budget committee shall cause to be conducted a program and fiscal review of each state agency scheduled for termination by the processes provided in this chapter. Such program and fiscal review shall be completed and a report prepared on or before September 30th of the year prior to the date established for termination. Upon completion of its report, the legislative budget committee shall transmit copies of the report as well as working papers, related studies, and documents to the office of financial management. The office of financial management may then conduct its own program and fiscal review of the agency scheduled for termination and shall prepare a report on or before December 31st of the year prior to the date established for termination. Upon completion of its report the office of financial management shall transmit copies of its report as well as related studies and documents to the legislative budget committee. The legislative budget committee shall prepare a final report that includes the reports of both the office of financial management and the legislative budget committee as well as related studies and documents. The legislative budget committee

shall transmit the final report to all members of the legislature, to the state agency concerned, to the governor, and to the state library. [1977 1st ex.s. c 289 § 5.]

43.131.060 Legislative budget committee review of regulatory entity—Factors for consideration. In conducting the review of a regulatory entity, the legislative budget committee shall consider, but not be limited to, the following factors where applicable:

- (1) The extent to which the regulatory entity has permitted qualified applicants to serve the public;
- (2) The extent to which the regulatory entity restricts or inhibits competition or otherwise adversely affects the state's economic climate;
- (3) The extent to which the system of regulation has contributed directly or indirectly to increasing or decreasing the costs of any goods or services involved;
- (4) The duties of the regulatory entity and the costs incurred in carrying out such duties;
- (5) Whether the regulatory entity has operated in the public interest, including the extent to which the regulatory entity has:
 - (a) Sought and achieved public participation in making its rules and decisions including consideration of recommending appointment of one or more "public" members to the entity;
 - (b) Processed to completion in a timely and equitable manner the formal complaints filed with it;
 - (c) Implemented an effective system of evaluating the impact on the public of its rules and decisions regarding economy, availability, and improvement of the services rendered to the persons it regulates;
 - (d) Initiated administrative procedures or recommended statutory changes to the legislature that would benefit the public as opposed to the persons it regulates; and
 - (e) Identified the needs and problems of the recipients of goods and services provided by those regulated;
- (6) The extent to which persons regulated by the regulatory entity have been encouraged to participate in assessing problems in their profession, occupation, or industry which affect the public;
- (7) The impact and effectiveness of the regulatory entity with respect to the problems or needs the entity was intended to address;
- (8) The consequences of eliminating or modifying the program of the regulatory entity;
- (9) The extent to which the regulatory entity duplicates the activities of other regulatory entities or of the private sector, where appropriate; and
- (10) The extent to which the absence or modification of regulation would adversely affect the public health, safety, or welfare. [1977 1st ex.s. c 289 § 6.]

43.131.070 Legislative budget committee review of a state agency other than a regulatory entity—Factors for consideration. In conducting the review of a state agency other than a regulatory entity, the legislative budget committee shall consider, but not be limited to, the following factors where applicable:

- (1) The extent to which the state agency has complied with legislative intent;

- (2) The extent to which the state agency is operating in an efficient and economical manner which results in optimum performance;

- (3) The extent to which the state agency is operating in the public interest by effectively providing a needed service that should be continued rather than modified, consolidated, or eliminated;

- (4) The extent to which the state agency duplicates the activities of other state agencies or of the private sector, where appropriate; and

- (5) The extent to which the termination or modification of the state agency would adversely affect the public health, safety, or welfare. [1977 1st ex.s. c 289 § 7.]

43.131.080 Committees of reference—Powers and duties. (1) Following receipt of the final report from the legislative budget committee, the appropriate committees of reference in the senate and the house of representatives shall jointly hold a public hearing to consider the final report and any related data. The committees shall also receive testimony from representatives of the state agency involved, which shall have the burden of demonstrating a public need for its continued existence; and from the governor or the governor's designee, and other interested parties, including the general public.

(2) When requested jointly by the presiding members of the appropriate senate and house committees of reference, a regulatory entity under review shall mail an announcement of the joint hearing to the persons it regulates who have requested notice of agency rule-making proceedings as provided in RCW 34.04.025(1)(a), as now existing or hereafter amended, or who have requested notice of hearings held pursuant to the provisions of this section. On request of either presiding member, such mailing shall include an explanatory statement not exceeding one page in length prepared and supplied by the member's committee.

(3) The presiding members of the senate committee on ways and means and the house committee on appropriations may designate one or more liaison members to each committee of reference in their respective chambers for purposes of participating in the joint hearing and in subsequent committee of reference discussions and to seek a coordinated approach between the committee of reference and the committee they represent in a liaison capacity.

(4) Following the joint hearing by the committees of reference, such committees may separately hold additional meetings or hearings to come to a final determination as to whether a state agency has demonstrated a public need for its continued existence or whether modifications in existing procedures are needed. In the event that a committee of reference concludes that a state agency shall be reestablished or modified or its functions transferred elsewhere, it shall make such determination as a bill. No more than one state agency shall be reestablished or modified in any one bill. [1977 1st ex.s. c 289 § 8.]

43.131.090 Termination of state agency—Procedures—Employee transfers—Property disposition—Funds and moneys—Rules—Contracts. If terminated, a state agency shall continue in existence until June 30th of the next succeeding year for the purpose of concluding its affairs: *Provided*, That the powers and authority of the state agency shall not be reduced or otherwise limited during this period. Unless otherwise provided:

(1) All employees of terminated state agencies classified under chapter 41.06 RCW, the state civil service law, shall be transferred as appropriate or as otherwise provided in the procedures adopted by the personnel board pursuant to RCW 41.06.150;

(2) All documents and papers, equipment, or other tangible property in the possession of the terminated state agency shall be delivered to the custody of the agency assuming the responsibilities of the terminated agency or if such responsibilities have been eliminated, documents and papers shall be delivered to the state archivist and equipment or other tangible property to the department of general administration;

(3) All funds held by, or other moneys due to, the terminated state agency shall revert to the fund from which they were appropriated, or if that fund is abolished to the general fund;

(4) Notwithstanding the provisions of RCW 34.04-.940, all rules made by a terminated state agency shall be repealed, without further action by the state agency, at the end of the period provided in this section, unless assumed and reaffirmed by the agency assuming the related legal responsibilities of the terminated state agency;

(5) All contractual rights and duties of a state agency shall be assigned or delegated to the agency assuming the responsibilities of the terminated state agency, or if there is none to such agency as the governor shall direct. [1977 1st ex.s. c 289 § 9.]

43.131.100 Termination of state agency—Pending business—Savings. This chapter shall not affect the right to institute or prosecute any cause of action by or against a state agency terminated pursuant to this chapter if the cause of action arose prior to the end of the period provided in RCW 43.131.090. Such causes of action may be instituted, prosecuted, or defended in the name of the state of Washington by the office of the attorney general. Any hearing or other proceeding pending before a state agency to be terminated and not completed before the end of the period provided in RCW 43.131.090, may be completed by the agency assuming the responsibilities of the terminated state agency. [1977 1st ex.s. c 289 § 10.]

43.131.110 Committees—Reference to include successor. Any reference in this chapter to a committee of the legislature including the legislative budget committee shall also refer to the successor of that committee. [1977 1st ex.s. c 289 § 11.]

43.131.120 Select joint committee—Appointment—Duties. (1) The speaker of the house of representatives and the president of the senate shall appoint a select joint committee consisting of ten members of the legislature within thirty days of June 17, 1977. The speaker shall appoint three members of the majority party and two members of the minority party. The president shall appoint three members of the majority party and two members of the minority party. The committee shall be responsible for the development of legislation which provides a schedule for the termination of state agencies in a manner consistent with the terms of this chapter and of RCW 43.06.010 as now or hereafter amended. The termination of such state agencies shall occur over a period of six years, beginning on June 30, 1979. In the development of such legislation, the select joint committee shall:

(a) Identify state agencies which might appropriately be scheduled for termination and arrange for automatic termination of state agencies, with a reasonable number of state agencies to be terminated on June 30, 1979, a reasonable number of state agencies to be terminated on June 30, 1981, and a reasonable number of state agencies to be terminated on June 30, 1983; no more than one state agency shall be so identified or scheduled for automatic termination in any one section of such legislation;

(b) Seek to schedule state agencies with like goals, objectives, or functions for termination on the same date so as to better assure identification of duplicative activities and provide for appropriate modification or consolidation of state agencies to avoid future duplication; and

(c) Seek to schedule state agencies for termination in a manner which assures that as many committees of reference as possible have sufficient opportunity to develop experience in conducting reviews as provided pursuant to the terms of this chapter, and which assures that no such committee is given responsibility for review of an unreasonable number of state agencies during any legislative session.

(2) In identifying those state agencies to be scheduled for termination, the select joint committee shall consider, but not be limited to, the following factors where applicable:

(a) The extent to which the burden of compliance on the executive and legislative branches with the terms of this chapter is reasonable;

(b) The extent to which a state agency may serve the interests of a particular profession, occupation, or industry as opposed to the interests of the public;

(c) The extent to which a state agency may have outlived its original statutory purpose; and

(d) The potential for fiscal savings.

(3) The select joint committee shall also be responsible for assisting in the implementation of the terms and provisions of this chapter and shall establish proposed procedures which facilitate legislative review as required by this chapter for presentation to the legislature. Such committee shall recommend legislative rules which assure effective and appropriate consideration of all bills

and reports regarding termination, modification, consolidation, or reauthorization of state agencies scheduled for termination.

(4) Proposed legislation, recommendations, and findings shall be submitted to the legislature as soon as is practicable, but no later than the first day the legislature is in session after January 1, 1978. [1977 1st ex.s. c 289 § 12.]

43.131.130 Legislature—Powers unaffected by enactment of chapter. Nothing in this chapter or RCW 43.06.010 as now or hereafter amended, shall prevent the legislature from abolishing or modifying a state agency scheduled for termination prior to the agency's established termination date or from abolishing or modifying any other state agency. [1977 1st ex.s. c 289 § 13.]

43.131.140 Termination of certain programs. (1) The following programs shall be terminated on June 30, 1978:

- (a) Debt adjusting (chapter 18.28 RCW);
- (b) Proprietary schools (chapter 18.82 RCW);
- (c) Grist mills (chapter 19.44 RCW); and
- (d) Regulation of vessels (chapter 88.04 RCW).

(2) The following state agencies and programs shall be terminated on June 30, 1979:

- (a) Driving instructors examining committee;
- (b) Water well construction operators examining board;
- (c) Forest fire advisory board;
- (d) Escrow commission;
- (e) Employment agency advisory board.

(3) The state agencies scheduled for termination in this section shall be subject to all of the processes provided in this chapter. The state agencies set forth in this section may also be included in the schedule of state agencies to be terminated which shall be developed by the select joint committee as provided in RCW 43.131.120. If any state agency set forth in this section is reestablished or modified, such agency shall remain subject to the provisions of RCW 43.131.120. If any state agency set forth in this section is not reestablished or modified according to the provisions of this section, then the inclusion of that state agency in the schedule provided in RCW 43.131.120 shall be null. [1977 1st ex.s. c 289 § 14.]

43.131.900 Expiration of chapter—Exception. Except for *sections 14, 15, and 17 of this 1977 amendatory act, this 1977 amendatory act shall expire on June 30, 1983, unless extended by law for an additional fixed period of time. [1977 1st ex.s. c 289 § 16.]

***Reviser's note:** "sections 14, 15, and 17 of this 1977 amendatory act" consist of RCW 43.131.140 (section 14), RCW 43.06.010 (section 15), and section 17 (uncodified) which is a repealer.

Chapter 43.132

FISCAL IMPACT OF PROPOSED LEGISLATION ON POLITICAL SUBDIVISIONS

Sections

43.132.010	Intent.
43.132.020	Fiscal notes—Preparation—Contents—Scope—Revisions—Reports.
43.132.030	Designation of planning and community affairs agency to prepare fiscal notes—Cooperation of state agencies, legislative staffs and local government associations.
43.132.040	Fiscal notes—Transmission of copies to designated recipients.
43.132.050	Fiscal notes—Transmission of copies upon request.
43.132.060	Legislative action upon or validity of measures not affected.

43.132.010 Intent. It is the intent of this chapter to create a uniform and coordinated procedure to determine the fiscal impact of proposed legislation on units of local government. [1977 1st ex.s. c 19 § 1.]

43.132.020 Fiscal notes—Preparation—Contents—Scope—Revisions—Reports. The director of the office of program planning and fiscal management or the director's designee shall, in cooperation with appropriate legislative committees and legislative staff, establish a mechanism for the determination of the fiscal impact of proposed legislation which if enacted into law would directly or indirectly increase or decrease revenues received or expenditures incurred by counties, cities, towns, or any other political subdivisions of the state. The office of program planning and fiscal management shall, when requested by a member of the state legislature, report in writing as to such fiscal impact and said report shall be known as a "fiscal note"

Such fiscal notes shall indicate by fiscal year the total impact on the subdivisions involved for the first two years the legislation would be in effect and also a cumulative six year forecast of the fiscal impact. Where feasible and applicable, the fiscal note also shall indicate the fiscal impact on each individual county or on a representative sampling of cities, towns, or other political subdivisions.

A fiscal note as defined in this section shall be provided only upon request of any member of the state legislature. A legislator also may request that such a fiscal note be revised to reflect the impact of proposed amendments or substitute bills. Fiscal notes shall be completed within seventy-two hours of the request unless a longer time period is allowed by the requesting legislator. In the event a fiscal note has not been completed within seventy-two hours of a request, a daily report shall be prepared for the requesting legislator by the director of the office of program planning and fiscal management which report summarizes the progress in preparing the fiscal note. If the request is referred to the director of the planning and community affairs agency, the daily report shall also include the date and time such referral was made. [1977 1st ex.s. c 19 § 2.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

43.132.030 Designation of planning and community affairs agency to prepare fiscal notes—Cooperation of state agencies, legislative staffs and local government associations. The director of the office of program planning and fiscal management is hereby empowered to designate the director of the planning and community affairs agency or its statutory successor as the official responsible for the preparation of fiscal notes authorized and required by this chapter. It is the intent of the legislature that when necessary the resources of other state agencies, appropriate legislative staffs, and the various associations of local government may be employed in the development of such fiscal notes. [1977 1st ex.s. c 19 § 3.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

43.132.040 Fiscal notes—Transmission of copies to designated recipients. When a fiscal note is prepared and approved as to form and completeness by the director of the office of program planning and fiscal management, the director shall transmit copies immediately to:

(1) The requesting legislator;

(2) With respect to proposed legislation held by the senate, the chairperson of the committee which holds or has acted upon the proposed legislation, the chairperson of the ways and means committee, the chairperson of the local government committee, and the secretary of the senate;

(3) With respect to proposed legislation held by the house of representatives, the chairperson of the committee which holds or has acted upon the proposed legislation, the chairpersons of the revenue and taxation and appropriations committees, the chairperson of the local government committee, and the chief clerk of the house of representatives; and

(4) The legislative budget committee. [1977 1st ex.s. c 19 § 4.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

43.132.050 Fiscal notes—Transmission of copies upon request. The office of program planning and fiscal management and the legislative budget committee may make additional copies of the fiscal note available to members of the legislature and others on request.

At the request of any member of the senate or house of representatives, whichever is considering the proposed legislation, and unless it is prohibited by the rules of the body, copies of the fiscal note or a synopsis thereof shall be placed on the members' desks at the time the proposed legislation takes its place on the second reading calendar.

Whenever proposed legislation accompanied by such a fiscal note is passed by either the senate or the house of representatives, the fiscal note shall be transmitted with the bill to the other house. [1977 1st ex.s. c 19 § 5.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

43.132.060 Legislative action upon or validity of measures not affected. Nothing in this chapter shall prevent either house of the legislature from acting on any bill or resolution before it as otherwise provided by the state Constitution, by law, and by the rules of the senate and house of representatives, nor shall the lack of any fiscal note as provided in this chapter or any error in the accuracy thereof affect the validity of any measure otherwise duly passed by the legislature. [1977 1st ex.s. c 19 § 6.]

Title 44

STATE GOVERNMENT—LEGISLATIVE

Chapters

- 44.04 General provisions.
- 44.18 Claims.
- 44.39 Joint committee on energy and utilities.
- 44.40 Legislative transportation committee—
Senate and house transportation and utilities committees.
- 44.48 Legislative evaluation and accountability program committee.
- 44.60 Legislative ethics.

Fiscal notes on legislation: Chapter 43.88A RCW.

Reports to legislature

school facilities cost stabilization program: RCW 28A.03.409.
student learning objectives program: RCW 28B.58.090 and 28B.58.092.

Rules and regulations, review by legislature

basic education act of 1977: RCW 28A.58.756.
educational clinics: RCW 28A.97.050.

Chapter 44.04

GENERAL PROVISIONS

Sections

44.04.190 Fiscal impact of proposed legislation on political subdivisions—Fiscal notes.

Development of definitions, criteria, and procedures for the operating cost of instruction (state universities): RCW 28B.15.070.

General tuition and fees for residents of British Columbia, Canada—Limitations—Program review: RCW 28B.15.710.

44.04.190 Fiscal impact of proposed legislation on political subdivisions—Fiscal notes. See chapter 43.132 RCW.

Chapter 44.18

CLAIMS

Section

44.18.010 Repealed.

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

Chapter 44.39

JOINT COMMITTEE ON ENERGY AND UTILITIES

(Formerly: Joint committee on nuclear energy)

Sections

44.39.010	Committee created.
44.39.015	Composition—Appointment of members.
44.39.020	Terms.
44.39.025	Vacancies.
44.39.030	Repealed.
44.39.035	Repealed.
44.39.038	Study of state building code relating to energy.
44.39.040	Repealed.
44.39.060	Examinations—Subpoenas—Depositions— Contempt proceedings—Witness fees.
44.39.070	Meetings—Energy supply alert or energy emer- gency—Duties.

Energy supply emergencies, alerts: Chapter 43.21G RCW.

44.39.010 Committee created. There is hereby created the joint committee on energy and utilities of the legislature of the state of Washington. [1977 1st ex.s. c 328 § 13; 1969 ex.s. c 260 § 1.]

Severability—1977 1st ex.s. c 328: See note following RCW 43.21G.010.

44.39.015 Composition—Appointment of members. The committee shall consist of four senators and four representatives who shall be selected biennially as follows:

(1) The president of the senate shall nominate four members from the energy and utilities committee, including the chairman, two members being from each major political party, to serve on the committee, and shall submit the list of nominees to the senate for confirmation. Upon confirmation, the senators shall be deemed installed as members.

(2) The speaker of the house shall nominate four members from the energy and utilities committee, including the chairman, two members being from each major political party, to serve on the committee, and shall submit the list of nominees to the house of representatives for confirmation. Upon confirmation, the representatives shall be deemed installed as members. The chairmen of the senate and house energy and utilities committees shall alternately serve as chairman for one year terms. The chairman of the house committee shall serve as the initial chairman. The chairman may designate another committee member to serve as chairman in his or her absence. [1977 1st ex.s. c 328 § 14; 1969 ex.s. c 260 § 2.]

Severability—1977 1st ex.s. c 328: See note following RCW 43.21G.010.

44.39.020 Terms. Members shall serve until their successors are installed as provided in RCW 44.39.015, as now or hereafter amended, at the next succeeding regular session of the legislature, or until they are no longer members of the legislature, whichever is sooner. [1977 1st ex.s. c 328 § 15; 1969 ex.s. c 260 § 3.]

Severability—1977 1st ex.s. c 328: See note following RCW 43.21G.010.

44.39.025 Vacancies. The presiding officer of the appropriate legislative chamber shall fill any vacancies occurring on the committee by appointment from the same political party as the departing member. Notwithstanding the provisions of RCW 44.39.015 as now or hereafter amended, any such appointee shall be deemed installed as a member upon appointment. Members filling vacancies shall serve until they or their successors are installed as provided in RCW 44.39.015, as now or hereafter amended, or until they are no longer members of the legislature, whichever is sooner. [1977 1st ex.s. c 328 § 16; 1969 ex.s. c 260 § 4.]

Severability—1977 1st ex.s. c 328: See note following RCW 43.21G.010.

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

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

44.39.038 Study of state building code relating to energy. The senate and house committees on energy and utilities shall make continuing studies of the state building code as it relates to energy consumption, conservation and retention and shall submit their recommendations concerning such to the legislature periodically. [1977 1st ex.s. c 14 § 13.]

Severability—1977 1st ex.s. c 14: See RCW 19.27.905. State building code: Chapter 19.27 RCW.

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

44.39.060 Examinations—Subpoenas—Depositions—Contempt proceedings—Witness fees. In the discharge of any duty imposed by this chapter, the committee or any personnel acting under its direction shall have the authority to examine and inspect all properties, equipment, facilities, files, records, and accounts of any state office, department, institution, board, committee, commission, or agency; to administer oaths; and to issue subpoenas, upon approval of a majority of the members of the house or senate rules committee, to compel the attendance of witnesses and the production of any papers, books, accounts, documents, and testimony, and to cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by law for taking depositions in civil actions in the superior courts.

In case of the failure of any person to comply with any subpoena issued in behalf of the committee, or on the refusal of any witness to testify to any matters regarding which he may be lawfully interrogated, it shall be the duty of the superior court of any county, or of the judge thereof, on application of the committee, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

Each witness who appears before the committee by its order, other than a state official or employee, shall receive for his attendance the fees and mileage provided

for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers signed by such witness and approved by the chairman of the committee. [1977 1st ex.s. c 328 § 17.]

Severability—1977 1st ex.s. c 328: See note following RCW 43.21G.010.

44.39.070 Meetings—Energy supply alert or energy emergency—Duties. The committee shall only meet and function during a condition of energy supply alert or energy emergency. Upon the declaration by the governor of a condition of energy supply alert or energy emergency, the committee on energy and utilities shall meet to receive any plans proposed by the governor for programs, controls, standards, and priorities for the production, allocation, and consumption of energy during any current or anticipated condition of energy supply alert or energy emergency, any proposed plans for the suspension or modification of existing rules of the Washington Administrative Code, and any other relevant matters the governor deems desirable. The committee shall review such plans and matters and shall transmit its recommendations to the governor for review. The committee shall review any voluntary programs or local or regional programs for the production, allocation, or consumption of energy which have been submitted to the committee.

The committee shall receive any request from the governor for the approval of a declaration of a condition of energy emergency as provided in RCW 43.21G.040 as now or hereafter amended and shall either approve or disapprove such request.

During a condition of energy supply alert, the committee shall receive any request from the governor for an extension of the condition of energy supply alert for an additional sixty consecutive days and the findings upon which such request is based and shall either approve or disapprove such request.

During a condition of energy emergency the committee shall receive any request from the governor for an extension of the condition of energy emergency for an additional forty-five consecutive days and the finding upon which any such request is based and shall either approve or disapprove such request. [1977 1st ex.s. c 328 § 18.]

Severability—1977 1st ex.s. c 328: See note following RCW 43.21G.010.

Chapter 44.40

LEGISLATIVE TRANSPORTATION COMMITTEE—SENATE AND HOUSE TRANSPORTATION AND UTILITIES COMMITTEES

Sections

- 44.40.020 Powers, duties, and studies.
- 44.40.025 Study of funds or accounts related to state transportation programs.
- 44.40.030 Participation in activities of other organizations.
- 44.40.040 Members' allowances—Procedure for payment of committee's expenses.

- 44.40.070 State transportation agencies—Preparation of long range plans, comprehensive programs, and financial plans required.
- 44.40.090 Delegation of powers and duties to senate and house transportation committees.
- 44.40.100 Contracts and programs authorized.
- 44.40.110 Repealed.
- 44.40.120 Periodic review of plans for bicycle, pedestrian, and equestrian facilities.
- 44.40.125 Repealed.
- 44.40.130 Repealed.

44.40.020 Powers, duties, and studies. The committee is authorized and directed to continue its studies and for that purpose shall have the powers set forth in chapter 111, Laws of 1947. The committee is further authorized to make studies related to bills assigned to the house and senate transportation committees and such other studies as provided by law. The executive committee of the committee may assign responsibility for all or part of the conduct of studies to the house and/or senate transportation committees. [1977 1st ex.s. c 235 § 5; 1975 1st ex.s. c 268 § 1; 1963 ex.s. c 3 § 36.]

Powers and studies set forth in chapter 235, Laws of 1977 1st ex.s.: "NEW SECTION. Section 1. The legislative transportation committee is authorized to conduct the following studies and activities and such other related studies and activities as it deems appropriate, may employ consultants, and shall report findings and recommendations, as appropriate, to the legislature during or prior to the 1979 regular legislative session:

- (1) Review local, state, and national needs studies, for the purpose of evaluating the consolidation of such needs studies;
- (2) Evaluate the method of collection and administration of special fuel taxes to include, but not be limited to, economies in administration of the tax and evasion of such fuel taxes;
- (3) Continue reviewing the interrelationship of state and federal laws and regulations with respect to administering federal programs within the state, including but not limited to, laws affecting right of way and environmental protection, considering alternatives of decentralization of administration and supervision to the state;
- (4) Evaluate the Washington state highway cost allocation study and other related literature to determine alterations to the present transportation taxation structure which may improve equity among the various classes of vehicles and users;
- (5) Conduct a review of current maritime regulation including, but not limited to:
 - (a) The interrelationship of federal and state maritime safety regulations;
 - (b) Safety procedures for handling hazardous cargoes;
 - (c) Possible sources of funding for waterway safety improvements;
 - (d) Current laws regarding vessel accident liability;
- (6) In cooperation with the Washington state highway commission, conduct a needs study for a highway crossing the Saddle mountains between Royal City and the Wahluke slope;
- (7) In cooperation with the highway commission, evaluate the need to upgrade state route 17, from a junction with state route 97 near Chief Joseph Dam to its southern terminus near Eltopia; such study shall determine the feasibility of improving the alignment so as to make state route 17 the principal north-south corridor through central Washington;
- (8) Evaluate the cost impact of granting reciprocity to motor vehicles registered in other states until the expiration of the current registration period;
- (9) In cooperation with the utilities and transportation commission, review the regulation of auto transportation companies with particular attention to assigned certificated routes which are not currently being served;
- (10) Develop policies, procedures, and criteria to be used by the legislature to determine relative priorities for use of state motor vehicle fund revenues by state agencies, counties, and cities, including development of alternative methods of financing activities of the Washington state patrol which are currently appropriated from the motor vehicle fund;

(11) Evaluate operations of the Washington state ferry system including toll structure, scheduling practices, vessel acquisition, and terminal facilities, to promote more efficient utilization of state ferry vessels;

(12) Evaluate the desirability and feasibility of developing a state-wide transportation marketing plan. The evaluation shall consider, but not be limited to, the desirability of publishing a state transportation guide, coordination between public and private transit operations, the role of the state in implementing such a plan, and case studies of marketing techniques which can be undertaken by large and small public and private transit operators;

(13) Examine alternative methods of reducing traffic congestion, including participation in demonstration projects to increase vehicle occupancy, and/or to stagger working hours, for the public in general and of state employees in particular;

(14) Perform an analysis of statutes that must be amended or repealed, and the identification and definition of revenue sources that may be varied in order to achieve uniformity with other member states and ensure equity of prevailing transportation rates as the result of implementation of the international registration plan;

(15) Continue research into the most feasible economic means to provide convenient and reliable single-stop service for permit issuance to intrastate and interstate commercial vehicles;

(16) Determine the most effective means to coordinate and implement state-wide bicycle safety instruction from among the various programs of federal, state, and local agencies, and interested professional and citizen's groups;

(17) Determine the need for realignment of state route 20 between Sedro Wooley and state route 5. Such study shall include route selection and cost analysis of various alternatives. The results of said study shall be reported to the legislature by January 30, 1978;

(18) Review statutes related to transportation and make recommendations for the rewrite of certain statutes or the repeal of obsolete or temporary provisions;

(19) Perform a comprehensive study to determine the feasibility of submitting and appropriating future highway commission capital budgets on the basis of total contract costs (obligations), as opposed to the current practice of budgeting expenditures for only one biennium;

(20) Evaluate the statutory route designation of state route 20 between Okanogan and Tonasket;

(21) Review state involvement in aviation including:

(a) The taxation structure for commercial and third-level air carriers, and for general aviation;

(b) The need for third-level air carrier regulations including route certification, service levels, and fair standardization;

(c) The availability of adequate funding for necessary local airport improvements; and

(d) The need for a policy by which the aeronautics commission, or the department of transportation if it is created, can prevent the construction of or remove structures which pose a hazard to the flight of aircraft;

(22) Continue to develop policies and guidelines for biennial state highway commission review of highways with respect to whether sections should be added to or deleted from the state highway system; said study shall include reevaluation of all designated routes, whether or not constructed with recommendations on specific routes whose statutory designation as state routes should be reaffirmed;

(23) Study the size and weight laws of commercial vehicles of this state and other western states with the view toward achieving uniformity where the best interest of our state would be served;

(24) Perform a study to determine the feasibility and cost effectiveness of asphalt-rubber membranes for application in highway construction;

(25) Determine the need for realignment and/or upgrading of state route 530 between Arlington and Darrington;

(26) Determine the need for improvements to state route 509 in view of increased marine vessel activity at the Port of Tacoma;

(27) Review driver licensing procedures within the department of motor vehicles including, but not limited to:

(a) The present lack of the use of the point system and the establishment of the new system;

(b) The effectiveness of methods of current practices for license suspension or removal and subsequent driver rehabilitation program;

(c) Changes that have occurred in the past several years making it difficult (through courts or legislation) to administer restrictive programs or penalties;

(d) Maintenance of accident records and release of those records to insurance companies;

(28) Survey court decisions within the state of Washington relating to motor vehicle laws, including:

(a) The concurrence or disregard of present motor vehicle laws, especially mandatory laws by the counties;

(b) A study of the other decisions affecting the drinking driver laws, including juvenile court practices and decisions affecting young drivers;

(29) Review current state and federal standards on motor vehicle equipment and motor vehicle modifications and make recommendations for changes which will promote highway safety;

(30) Review existing environmental legislation which affects the construction of public works projects to formulate effective alternative relief for the enforcement of such laws other than the use of temporary or permanent injunctions or other stays which result in the delay of such projects. The study shall further consider effective means of recovering losses sustained by taxpayers as the result of construction delays caused by improvidently granted injunctions or stays;

(31) Review, in cooperation with Metro, other public transit agencies in the state of Washington, and the urban mass transportation administration methods of improving public transit through value capture financing;

(32) Continue review of the statutes relating to regulation of common carriers, and an examination of whether the public interest is being best served through such regulation;

(33) Review, in cooperation with the department of highways, the statutes relating to outdoor advertising, and examine existing public policy relating to scenic and recreational highways;

(34) Examine the need for advertising on school bus shelters as a means of paying the cost of such shelters;

(35) Participate, in cooperation with the state department of transportation, if one is created, in the rail studies authorized by the Amtrak improvement act of 1974 and the railroad revitalization and regulatory reform act of 1976;

(36) Examine, in cooperation with public transit agencies of the state, a coordinated method of funding public transit systems;

(37) Undertake a pilot project of the effectiveness of a bus service to the East Olympia railroad station. The study shall examine the effect on railroad ridership of having bus service available for Olympia patrons;

(38) A study of the use of jitneys or vanpools, particularly in rural areas, as a means of complementing public transit systems;

(39) Conduct a comparison cost-benefit study on means of reducing vehicle noise levels by (a) vehicle emission controls and (b) the construction of noise attenuation devices or structures at roadside. The study shall consider four representative sites on state highways, including one on state route 405 in the vicinity of Norwood Village. In developing the cost and effectiveness of vehicle emission controls, the committee shall use any prior studies so as to avoid duplication of effort;

(40) Study the feasibility of improving intercity rail passenger and connecting bus service. The committee may enter into contracts for the purpose of providing connecting bus service to selected train depots and such other services which are deemed to be useful in preparing the feasibility study;

(41) Review the quality of landscaping adjacent to state highways as well as the role of the landscape architect in highway planning, in cooperation with the state department of transportation, if one is created;

(42) Examine the need for the state to encourage broader utilization of the metric system on signs along the state highway system;

(43) Review in cooperation with the department of highways and, if deemed appropriate, develop revisions of the existing priority programming laws now codified in chapter 47.05 RCW which will assure that in the long and short term allocation of available construction funds adequate consideration is given to the lack of feasible alternative modes of transportation to the private automobile within many of the rural, suburban, and small urban areas of the state." [1977 1st ex.s. c 235 § 1.]

Reviser's notes: (1) Powers, duties, and functions of highway commission, highway department, and aeronautics commission transferred to department of transportation; see RCW 47.01.031. Terms designating such entities mean department of transportation; see RCW 47.04.015 and 47.68.015.

(2) The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334; see RCW 46.01.020.

Powers set forth in chapter 111, Laws of 1947: "Sec. 2. The committee is hereby authorized and directed to ascertain, study and analyze all available facts and matters relating or pertaining to: (a) A study of the policies relating to and the cost of the administration, operation, construction and maintenance of public highways and streets of the state, with recommendations for such changes as may be deemed necessary;

(b) the need for and cost of bringing the highways and streets in the state to acceptable standards, the cost of maintaining them in such condition, the need and cost of expanding the highway and street systems of the state to meet the increasing demands for travel and the demands arising from the changing economic and industrial development, and the determination of long-range programs to provide the needed construction;

(c) the making of a study of motor vehicle taxation including the assignment of the total highway costs among property owners, general taxpayers and highway users;

(d) the determination of the portion of highway and street operation and construction costs assignable to the various highway users and classes of users so that all vehicles and classes of vehicles shall bear their fair share of such costs;

(e) the determination of the tax basis and rates to be exacted from each vehicle or user;

(f) a determination of what roads should be included in the state highway system and what changes should be made in the existing system;

(g) other studies of motor vehicle transport economics including but not limited to the inspection of motor vehicles to insure the safety of operation upon the highways, the control of loads and weights for the protection of the highway and street investments, and a study of such other factors and conditions as may appear necessary;

(h) the revision of any and all laws bearing upon or relating to the subject of this resolution together with the committee's recommendations for appropriate legislation. [1947 c 111 § 2.]

Sec. 3. The committee is authorized to act during this session of the legislature, including any recess, and after final adjournment until the commencement of the next regular session. It shall file a final report not later than the 15th legislative day of the next regular session. The committee may prepare and submit a preliminary report to the legislature at any extraordinary session which may be convened. [1947 c 111 § 3.]

Sec. 4. The committee and its members shall have and exercise all of the rights, duties and powers conferred upon legislative committees and their members by the provisions of chapter 6, Laws of 1895 and chapter 33, Laws of 1897 (secs. 8178 through 8194, Rem. Rev. Stat.; secs. 722-1, -3, -5, -7, -9, -11, -13, -15, -17, -19, -21, -23, -25, -27, -29, -31, and -33, PPC) [chapter 44.16 RCW] and shall have additional powers: (a) To select a chairman and vice-chairman from its membership;

(b) to employ an executive secretary and such expert, clerical and other help as may be necessary to carry out its duties;

(c) to cooperate with and secure the cooperation of county, city and other local law enforcement agencies in investigating any matter within the scope of this act and to direct the sheriff of any county to serve subpoenas, orders and other process issued by the committee;

(d) to do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this act." [1947 c 111 § 4.]

Reviser's note: Successive study authorizations, not codified in RCW, are to be found in the various session laws subsequent to 1947, for example: 1949 c 213; 1951 c 269; 1953 c 254; 1955 c 384; 1957 c 172; 1959 c 319; 1961 ex.s. c 21; 1963 ex.s. c 3; 1965 ex.s. c 170; 1967 ex.s. c 145; 1969 ex.s. c 281; 1970 ex.s. c 85; 1971 ex.s. c 195; 1973 1st ex.s. c 210; 1975 1st ex.s. c 268; and 1977 1st ex.s. c 235.

Legislative transportation committee duties in conjunction with transportation commission: See note following RCW 47.01.071.

44.40.025 Study of funds or accounts related to state transportation programs. In addition to the powers and duties authorized in RCW 44.40.020 the committee and the standing committees on transportation of the house and senate shall, in coordination with the legislative budget committee, the senate ways and means committee, the house committee on revenue, and the house

committee on appropriations, ascertain, study, and/or analyze all available facts and matters relating or pertaining to sources of revenue, appropriations, expenditures, and financial condition of the motor vehicle fund and accounts thereof, the highway safety fund, and all other funds or accounts related to transportation programs of the state. [1977 1st ex.s. c 235 § 6; 1975 1st ex.s. c 293 § 19; 1971 ex.s. c 195 § 2.]

Severability—1975 1st ex.s. c 293: See RCW 43.88.902.

Effective date—1975 1st ex.s. c 293: See RCW 43.88.910.

Severability—1971 ex.s. c 195: See note following RCW 44.40.010.

44.40.030 Participation in activities of other organizations. In addition to the powers and duties heretofore conferred upon it, the legislative transportation committee may participate in: (1) The activities of committees of the council of state governments concerned with transportation activities; (2) activities of the national committee on uniform traffic laws and ordinances; (3) any interstate reciprocity or proration meetings designated by the Washington reciprocity commission; and (4) such other organizations as it deems necessary and appropriate. [1977 1st ex.s. c 235 § 7; 1971 ex.s. c 195 § 3; 1963 ex.s. c 3 § 38.]

Severability—1971 ex.s. c 195: See note following RCW 44.40.010.

44.40.040 Members' allowances—Procedure for payment of committee's expenses. The members of the legislative transportation committee and the house and senate transportation committees shall receive allowances while attending meetings of the committees or subcommittees and while engaged in other authorized business of the committees as provided in RCW 44.04-.120 as now or hereafter amended. All expenses incurred by the committee, and the house and senate transportation committees, including salaries of employees of the legislative transportation committee, shall be paid upon voucher forms as provided by the office of program planning and fiscal management and signed by the chairman or vice chairman or authorized designee of the chairman of the committee, and the authority of said chairman or vice chairman to sign vouchers shall continue until their successors are selected. Vouchers may be drawn upon funds appropriated for the expenses of the committee. [1977 1st ex.s. c 235 § 8; 1975 1st ex.s. c 268 § 3; 1971 ex.s. c 195 § 4; 1963 ex.s. c 3 § 39.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Severability—1971 ex.s. c 195: See note following RCW 44.40.010.

44.40.070 State transportation agencies—Preparation of long range plans, comprehensive programs, and financial plans required. Prior to October 1 of each even-numbered year all state agencies whose major programs consist of transportation activities, including the state highway commission, the toll bridge authority, the urban arterial board, the Washington state patrol, the

department of motor vehicles, the traffic safety commission, the county road administration board, and the aeronautics commission, shall adopt or revise after consultation with the legislative transportation committee, and/or senate and house transportation committees, a long range plan of not less than six years and a comprehensive six-year program and financial plan for all transportation activities under each agency's jurisdiction.

The long range plan shall state the general objectives and needs of each agency's major transportation programs.

The comprehensive six-year program and financial plan shall be prepared in consonance with the long range plan and shall identify that portion of the long range plan to be accomplished within the succeeding six-year period. [1977 1st ex.s. c 235 § 9; 1973 1st ex.s. c 201 § 1.]

Reviser's note: (1) Powers, duties, and functions of highway commission, toll bridge authority, and aeronautics commission transferred to department of transportation; see RCW 47.01.031. Terms designating such entities mean department of transportation; see RCW 47.04.015 and 47.68.015.

(2) The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

44.40.090 Delegation of powers and duties to senate and house transportation committees. Powers and duties enumerated by this chapter shall be delegated to the senate and house transportation committees during periods when the legislative transportation committee is not appointed. [1977 1st ex.s. c 235 § 10; 1973 1st ex.s. c 210 § 2.]

44.40.100 Contracts and programs authorized. The legislative transportation committee and/or the senate and house transportation committees may enter into contracts on behalf of the state to carry out the purposes of chapter 44.40 RCW as amended; and it or they may act for the state in the initiation of or participation in any multigovernmental program relative to transportation planning or programming; and it or they may enter into contracts to receive federal or other funds, grants, or gifts to carry out said purposes and to be used in preference to or in combination with state funds. When federal or other funds are received, they shall be deposited with the state treasurer and thereafter expended only upon approval by the committee or committees. [1977 1st ex.s. c 235 § 11; 1975 1st ex.s. c 268 § 7; 1973 1st ex.s. c 210 § 3.]

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

44.40.120 Periodic review of plans for bicycle, pedestrian, and equestrian facilities. The house and senate transportation committees shall periodically review the six-year comprehensive plans submitted by cities and counties for expenditures for bicycle, pedestrian, and equestrian facilities prepared pursuant to RCW 35.77-.010 and 36.81.121. [1977 1st ex.s. c 235 § 12; 1975 1st ex.s. c 268 § 2.]

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

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

Chapter 44.48

LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE

Sections

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44.48.020	Terms of members—Vacancies.
44.48.030	Continuation of memberships, powers, duties, etc.
44.48.040	Travel expenses of members—Reimbursement.
44.48.050	Expenses of committee—Vouchers.
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44.48.070	Committee's duties with respect to data processing capability for fiscal matters—LEAP defined.
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44.48.100	Reports to legislature—Minutes.
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44.48.130	Exemption from data processing authority.
44.48.140	Cooperation with legislative committees and others.
44.48.900	Severability—1977 1st ex.s. c 373.

44.48.010 Legislative evaluation and accountability program committee created—Composition. There is hereby created a legislative evaluation and accountability program committee which shall consist of four senators and four representatives from the legislature. The senate members of the committee shall be appointed by the president of the senate and the house members of the committee shall be appointed by the speaker of the house. Not more than two members from each house shall be from the same political party. All members shall be appointed before the close of the 1977 session of the legislature and before the close of each regular session thereafter. Members shall be subject to confirmation, as to the senate members by the senate, and as to the house members by the house. [1977 1st ex.s. c 373 § 1.]

44.48.020 Terms of members—Vacancies. The term of office of the members of the committee who continue to be members of the senate and house shall be from the close of the session in which they were appointed or elected as provided in RCW 44.48.010 until the close of the next regular session, or, in the event that such appointments or elections are not made, until the close of the next regular session during which successors are appointed or elected. The term of office of such committee members as shall not continue to be members of the senate and house shall cease upon the convening of the next regular session of the legislature after their confirmation, election, or appointment. Vacancies on the committee shall be filled by appointment by the remaining members. All such vacancies shall be filled from the same political party and from the same house as the member whose seat was vacated. [1977 1st ex.s. c 373 § 2.]

44.48.030 Continuation of memberships, powers, duties, etc. On and after the commencement of a succeeding regular session of the legislature, those members of the committee who continue to be members of the senate and house, respectively, shall continue as members of the committee as indicated in RCW 44.48.020 and the committee shall continue with all its powers, duties, authorities, records, papers, personnel and staff, and all funds made available for its use. [1977 1st ex.s. c 373 § 3.]

44.48.040 Travel expenses of members—Reimbursement. The members of the committee shall serve without additional compensation, but shall be reimbursed in accordance with RCW 44.04.120 while attending sessions of the committee or meetings of any subcommittee of the committee, or on other committee business authorized by the committee. [1977 1st ex.s. c 373 § 4.]

44.48.050 Expenses of committee—Vouchers. All expenses incurred by the committee, including salaries and expenses of employees, shall be paid upon voucher forms as provided by the administrator and signed by the chairman or vice chairman of the committee and attested by the secretary of said committee, and the authority of said chairman and secretary to sign vouchers shall continue until their successors are selected after each ensuing session of the legislature. Vouchers may be drawn on funds appropriated by law for the committee: *Provided*, That the senate and the house may authorize the committee to draw on funds appropriated by the legislature for legislative expenses. [1977 1st ex.s. c 373 § 5.]

44.48.060 Officers and rules. The committee shall have the power and duty to appoint its own chairman, vice chairman, and other officers; and to make rules for orderly procedure. [1977 1st ex.s. c 373 § 6.]

44.48.070 Committee's duties with respect to data processing capability for fiscal matters—LEAP defined. The committee shall acquire a data processing service capability under the exclusive jurisdiction and control of the legislature acting through the committee and its administrator for the purpose of providing the legislature and its staff with the type of information required for in-depth analysis and monitoring of state agency expenditures, budgets, and related fiscal matters. The legislative evaluation and accountability program established in this section may be referred to in this chapter as the LEAP administration. [1977 1st ex.s. c 373 § 7.]

44.48.080 Duties of LEAP administration. To carry out the provisions of RCW 44.48.070 the LEAP administration shall provide for:

- (1) Automated data bases and application systems in support of legislative requirements to monitor, evaluate, analyze, report, and review;
- (2) Maintenance of computer software, application programs, data bases, and related documentation;

- (3) Education, training, and programming services;
- (4) Procedural documentation support; and
- (5) Consulting assistance on special projects. [1977 1st ex.s. c 373 § 8.]

44.48.090 Committee's powers. The committee shall have the following powers:

- (1) To have timely access, upon written request of the administrator, to all machine readable, printed, and other data of state agencies relative to expenditures, budgets, and related fiscal matters;
- (2) To suggest changes relative to state accounting and reporting systems to the office of program planning and fiscal management or its successor and to require timely written responses to such suggestions; and
- (3) To enter into contracts; and when entering into any contract for computer access, make necessary provisions relative to the scheduling of computer time and usage in recognition of the unique requirements and priorities of the legislative process. [1977 1st ex.s. c 373 § 9.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

44.48.100 Reports to legislature—Minutes. The committee shall have the power to make reports to the legislature. The committee shall keep complete minutes of its meetings. The committee shall make and distribute its final report to the members of the ensuing legislature at least ten days prior to the convening of the legislature. [1977 1st ex.s. c 373 § 10.]

44.48.110 Witness fees and mileage. Each person who appears before the committee, other than a state official or employee, may upon request receive for attendance the fees and mileage provided for witnesses in civil cases in courts of record in accordance with the provisions of RCW 2.40.010, which shall be audited and paid upon the presentation of proper vouchers signed by such person and approved by the secretary and chairman of the committee. [1977 1st ex.s. c 373 § 11.]

44.48.120 LEAP administrator and other assistants—Employment—Duties of LEAP administrator. The committee is hereby authorized and empowered to appoint an officer to be known as the LEAP administrator who shall be the executive officer of the committee and assist in its duties and shall compile information for the committee.

The committee is hereby authorized and empowered to select and employ temporary and permanent personnel and fix their salaries.

The duties of the administrator shall be as follows:

- (1) To manage the LEAP operations.
- (2) To assist the several standing committees of the house and senate; to appear before other legislative committees; and to assist any other legislative committee upon instruction by the committee.
- (3) To provide the legislature with information obtained under the direction of the committee.

(4) To maintain a record of all work performed by the administrator under the direction of the committee and to keep and make available all documents, data, and reports submitted to the administrator by any legislative committee. [1977 1st ex.s. c 373 § 12.]

44.48.130 Exemption from data processing authority. The committee is hereby expressly exempted from the provisions of chapter 43.105 RCW. [1977 1st ex.s. c 373 § 13.]

44.48.140 Cooperation with legislative committees and others. The committee shall cooperate, act, and function with Washington state legislative committees and may cooperate with the councils or committees of other states similar to this committee and with other interstate research organizations. [1977 1st ex.s. c 373 § 14.]

44.48.900 Severability—1977 1st ex.s. c 373. 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. [1977 1st ex.s. c 373 § 16.]

Chapter 44.60 LEGISLATIVE ETHICS

Sections

44.60.010	Definitions.
44.60.020	Boards of legislative ethics—Appointment of members—Terms—Vacancies—Quorum.
44.60.040	Affidavit to be filed by members—Additional statement by lay members.
44.60.050	Meetings—Public hearings—Expenses and allowances.
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44.60.100	Advisory opinions—Procedures.
44.60.110	Powers, duties, and functions of boards.
44.60.120	Boards—Officers and meetings.
44.60.130	Annual reports.

44.60.010 Definitions. Definition of terms:

(1) "Legislator" means a current member of the senate or house of representatives of the state of Washington. The term shall include an appointee to either house.

(2) "Board" or "board of ethics" means the senate board of legislative ethics or the house board of legislative ethics, created by this chapter, or the joint board composed of the senate and house boards, whichever is appropriate.

(3) "Unethical conduct" means any conduct which constitutes a violation of any constitutional provision, statute, rule of the house or senate or joint rule prescribing standards of conduct for legislators and legislative employees.

(4) "Legislative employee" means any person employed by either house on a temporary or permanent

basis as well as any employee of a permanent or interim legislative committee. [1977 1st ex.s. c 218 § 1; 1967 ex.s. c 150 § 1.]

Severability—1977 1st ex.s. c 218: "If any provision of this 1977 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." [1977 1st ex.s. c 218 § 12.]

This applies to the amendment of RCW 44.60.010, 44.60.020, 44.60.040, 44.60.050, 44.60.070, and 44.60.080, the repeal of RCW 44.60.060, and the enactment of RCW 44.60.100, 44.60.110, 44.60.120, and 44.60.130.

Code of ethics for public officials: Chapter 42.21 RCW.

Financial disclosure: Chapter 42.17 RCW.

44.60.020 Boards of legislative ethics—Appointment of members—Terms—Vacancies—Quorum.

There is created within each house of the legislature a board of legislative ethics composed of eight members. Prior to the close of the present session of the legislature the respective chairmen of the majority and minority senate caucuses shall each appoint two senators from their own caucus and in addition thereto shall each appoint two persons who are not active members of the legislature to serve as lay members of the senate board, and the eight members so selected shall constitute the senate board of ethics; and the respective chairmen of the majority and minority caucuses in the house of representatives shall each appoint two members from their own caucus and in addition thereto shall each appoint two persons who are not active members of the legislature to serve as lay members of the house board, and the eight members so selected shall constitute the house board of ethics. All such appointments of legislative and lay members shall be subject to the consent of the caucus wherein the appointment is made. The terms of legislative members shall be until they are no longer a member of the legislature or until their successors are appointed, whichever is sooner, and the terms of lay members shall be until their successors are appointed; and no member shall be removed during his term except for cause. Successors to legislative and lay members shall be appointed either: (1) On the day on which the next succeeding regular session of the legislature shall adjourn sine die: *Provided*, That if prior to such adjournment sine die, the governor shall have proclaimed an extraordinary session of the legislature, the appointments shall not be made until the day on which such extraordinary session shall adjourn sine die; or (2) within sixty days after the vacancy occurs, whichever is sooner. Legislative and lay members shall both be eligible for reappointment. Vacancies in the position of legislative or lay members shall be filled by the same appointing power and in the same manner as for the member vacating. Any vacancy shall not impair the right of the remaining members to exercise all of the powers of their board so long as quorum requirements are met.

Five members shall constitute a quorum for the board of each house and nine members shall constitute a quorum for the joint board: *Provided*, That for the purpose of rendering a final decision pursuant to RCW 44.60.110(4)(h) six members shall constitute a quorum

for the board of each house. [1977 1st ex.s. c 218 § 2; 1967 ex.s. c 150 § 2.]

Severability—1977 1st ex.s. c 218: See note following RCW 44.60.010.

44.60.040 Affidavit to be filed by members—Additional statement by lay members. Each legislative and lay member appointed by the respective caucus chairmen shall within thirty days after his appointment sign, under oath, and file an affidavit with the secretary of the senate or the chief clerk of the house of representatives, whichever is appropriate, that he will perform his duties as provided in this chapter, not disclose confidential information acquired by him as a result of such membership on the board, and a lay member shall additionally provide in his affidavit that during his term of office he will not engage in any legislative activity designed to defeat or enhance the passage of any legislative bill or measure, except as otherwise required by this chapter. Upon the failure of a legislative or lay member to sign and file an affidavit as required by this section, the chairman of the board to which he was appointed shall declare his seat vacant. [1977 1st ex.s. c 218 § 3; 1967 ex.s. c 150 § 4.]

Severability—1977 1st ex.s. c 218: See note following RCW 44.60.010.

44.60.050 Meetings—Public hearings—Expenses and allowances. The boards may meet as frequently as they deem necessary, whether or not the legislature is in session. Each board shall hold at least one public hearing each year at which the public will be permitted to testify only on matters relating to present or proposed legislative ethics codes, rules, and laws, as well as the functions and operations of the board. For attendance at meetings during the interim or in attending to other business of his board during the interim, each legislative member shall be entitled to the allowances provided for in RCW 44.04.120, and each lay member shall be entitled to travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended from funds appropriated for that purpose.

All expenses incurred by a board or any member thereof shall be paid upon voucher forms as provided by the budget director and signed by the chairman of the board or his designee: *Provided*, That vouchers for the expenses of the joint board shall be signed and attested by the chairman of the joint board. [1977 1st ex.s. c 218 § 4; 1975-'76 2nd ex.s. c 34 § 135; 1967 ex.s. c 150 § 5.]

Reviser's note: Powers, duties, and functions of the "budget director" transferred to the "office of program planning and fiscal management" by 1969 ex.s. c 239; redesignated "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Severability—1977 1st ex.s. c 218: See note following RCW 44.60.010.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

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

44.60.070 Joint board, powers, duties, and functions—Code of ethics. The joint board shall have the following powers, duties, and functions:

(1) Propose joint rules relating to legislative ethics and revisions or amendments thereto, which when adopted shall be referred to as the legislative code of ethics.

The code, and revisions or amendments thereto, shall be prepared in the form of joint rules of the senate and the house of representatives and shall be submitted in the form of a concurrent resolution at the next session of the legislature following its preparation. Such code, or revision or amendment thereof, when adopted, shall become effective as standards of conduct for the members and employees of the legislature.

The code submitted to the legislature for adoption shall be approved by a majority of the members of the joint board.

(2) To recommend other legislation and other action relating to legislative ethics.

(3) To develop advisory opinions to systematically establish criteria on which subsequent decisions can be based.

(4) Investigate possible unethical conduct of employees of legislative interim committees in the same manner as hereafter specified for employees of one house. [1977 1st ex.s. c 218 § 5; 1967 ex.s. c 150 § 6.]

Severability—1977 1st ex.s. c 218: See note following RCW 44.60.010.

44.60.080 Legislature to provide staff services. The senate and the house of representatives shall provide necessary staff services to the board. [1977 1st ex.s. c 218 § 6; 1967 ex.s. c 150 § 8.]

Severability—1977 1st ex.s. c 218: See note following RCW 44.60.010.

44.60.100 Advisory opinions—Procedures. The joint, senate, and house boards of legislative ethics shall issue advisory opinions with regard to standards of ethical conduct for legislators and legislative employees in accordance with the following procedures:

(1) Requests for advisory opinions may be made by legislators, legislative employees, or members of the public. A request must be stated hypothetically unless the individual requests a specific opinion concerning his own conduct. Requests must be written, signed, and directed to the chairman of the appropriate board as specified in subsection (2) of this section. Requests shall supply such information as the board requires to enable it to issue the opinion. The identity of the person making the request shall be known only to the chairman of such appropriate board, unless such confidentiality is waived in the request.

(2) Requests shall be directed to the chairman of the joint board: *Provided*, That all requests concerning the conduct of a particular member or employee of the legislature shall be sent to the chairman of the senate or house board as appropriate.

(3) Within thirty days of the receipt of a request, unless delay is unavoidable, a board shall either: (a) Issue a written advisory opinion, which shall not contain

information which reveals the identity of any individual; or (b) notify the person requesting such opinion that the request is beyond its jurisdiction, or that there are insufficient facts upon which an opinion can be based, or that the request is frivolous, or that the request is made for the purpose of harassment.

If delay is unavoidable, the person requesting the opinion shall be notified as to the status of the request within said thirty day period and at thirty day intervals until such time as action is taken.

(4) Upon receipt, requests shall be assigned a reference number. Each board shall maintain and keep current for public inspection a status sheet which shall contain with respect to each request: Its reference number, the date received by the board, and its present status.

(5) The secretary of the senate shall make available to the public copies of the status sheets and advisory opinions issued by the senate and joint boards and the chief clerk of the house of representatives shall make available to the public copies of the status sheets and advisory opinions issued by the house and joint boards. [1977 1st ex.s. c 218 § 7.]

Severability—1977 1st ex.s. c 218: See note following RCW 44.60.010.

44.60.110 Powers, duties, and functions of boards.

Each board shall have the following powers, duties, and functions:

(1) Issue advisory opinions pursuant to RCW 44.60.100.

(2) To provide a continuing program of education, assistance, and information to legislators with regard to legislative ethics.

(3) To make such rules for its own functioning and exercise such powers as may be appropriate for the discharge of the responsibilities of the board not in conflict with this chapter or the joint rules of the legislature.

(4) Investigate possible unethical conduct by legislators or legislative employees of its own house. Any such investigation shall be conducted in accordance with the following procedures:

(a) A complaint may be filed by a legislator, legislative employee, member of the public, a board, or member of a board. Complaints must be written, signed under oath, and directed to the chairman of the appropriate board. The board shall determine if the complaint is within its jurisdiction and whether there are sufficient facts alleged which if true may support a finding of unethical conduct.

(b) If the board finds that the complaint is not within its jurisdiction, or is frivolous, or is made for the purpose of harassment, or that there are insufficient facts alleged which if true may support a finding of unethical conduct, it shall dismiss the complaint, so notify the complainant, the person charged, and the public with a copy of the complaint and the board's reasons for dismissal.

(c) If the board finds that a complaint is within its jurisdiction and there are sufficient facts alleged which if true may support a finding of unethical conduct, such board shall hold an investigative hearing and send a

notice to the complainant and the person charged which shall include a copy of the complaint. The person charged shall receive at least thirty days' written notice of such hearing. The notice shall provide that the person charged shall be entitled to request the board to set an earlier hearing date, present evidence, cross-examine witnesses, be represented by counsel, and file an affidavit of prejudice within ten days of receipt of the notice as provided in subsection (4)(f) of this section.

(d) Investigative hearings shall be closed to the public unless, at least seventy-two hours prior to the hearing, the chairman receives from the person charged a written request that the hearing be open to the public.

(e) A board may designate a subcommittee composed of at least two members of the board, at least half of whom shall be lay members, to conduct investigative hearings. The board, or if designated thereby, any member or subcommittee of the board, may issue subpoenas for the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under examination by the board or involved in any hearing, administer oaths or affirmations, examine witnesses, and receive evidence. In case of disobedience to a subpoena, the board may invoke the aid of any superior court of the state. Such court may, in case of refusal to obey a subpoena issued to such person, issue an order requiring such person to appear before the board, to produce documentary evidence, and/or to give evidence, and any failure to obey such order may be punished by that court as contempt. Notwithstanding any other provision of law, every public official, state agency, and local governmental unit shall furnish to the board any documents, records, data, statements, or information which the board designates as being necessary for the exercise of its functions, powers or duties.

(f) Members of a board shall be disqualified in any case: (i) involving persons whom such members cannot judge impartially, in which cases they shall disqualify themselves; or (ii) where the person charged files an affidavit of prejudice against a member or members whom he believes is unable to make an impartial judgment, in which case the disqualification shall be automatic: *Provided*, That only one such affidavit may be filed in a single investigation. Whenever a member of the board is disqualified, the appropriate caucus chairman shall appoint pro tem, a replacement legislator or lay member as appropriate. Such appointment shall be subject to the consent of the caucus wherein the appointment is made.

(g) At the conclusion of the investigative hearings, a statement of findings of fact shall be prepared based upon evidence presented at the hearings. A copy of this statement shall be sent to the person charged who shall have at least ten days to offer a written rebuttal to the board. The board, on the basis of the findings of fact, any written rebuttal, and applicable standards of ethical conduct shall make a preliminary report which shall be subject to review and the rendering of a decision at the final hearing. Copies of the findings of fact, preliminary report, and notice of the date for a final hearing shall be sent by registered mail to the person charged. Such person may rebut the report not later than one week prior

to the final hearing date, but shall in any event have a period of not less than two weeks in which to respond.

(h) The final hearing shall be open to the public. There shall be available at the hearing copies of the board's findings of fact, preliminary report, and any written rebuttal received by the board from the person charged. The board shall, on the basis of these documents and any final statement made by the person charged, render a final decision as to whether the facts justify a finding of unethical conduct. A final decision must be agreed upon by at least six members of the board. The board shall notify the appropriate law enforcement agency directly if the board makes a finding that it has reasonable grounds to believe that a criminal violation has occurred.

(i) If the board in its final decision determines that the facts support a finding of unethical conduct, such decision shall be transmitted to the chief clerk of the house or the secretary of the senate as appropriate. Such officer shall deliver the report to his house at such time as that house is in session, for such action as that house deems appropriate.

(j) Upon receipt, complaints shall be assigned a reference number. Each board shall maintain and keep current for public inspection a status sheet which shall contain with respect to each complaint: Its reference number, the date received by the board, and its present status, including the date of any hearings scheduled. The name of the complainant and the person charged shall be entered on the status sheet following the notification provided for in subsection (4)(c) of this section.

The secretary of the senate and the chief clerk of the house of representatives shall make available to the public copies of the status sheets, findings of fact, written rebuttals, preliminary reports, and final decisions issued by their respective boards. [1977 1st ex.s. c 218 § 8.]

Severability—1977 1st ex.s. c 218: See note following RCW 44.60.010.

44.60.120 Boards—Officers and meetings. For the purposes of complying with the provisions of this chapter, each board shall select a chairman, who may be either a legislator or lay member, a vice chairman, and a secretary; and meetings of the board shall be called by the chairman when deemed necessary for the performance of the duties of the board. [1977 1st ex.s. c 218 § 9.]

Severability—1977 1st ex.s. c 218: See note following RCW 44.60.010.

44.60.130 Annual reports. Each board shall issue an annual report which shall contain advisory opinions and summaries of final board decisions. Copies of the reports shall be distributed to members of the legislature and through the depository library system. [1977 1st ex.s. c 218 § 10.]

Severability—1977 1st ex.s. c 218: See note following RCW 44.60.010.

Title 45 TOWNSHIPS

Chapters

- 45.24 Duties of town supervisors.
45.68 Guideposts.

Chapter 45.24 DUTIES OF TOWN SUPERVISORS

Sections

- 45.24.010 Powers and duties—General.
45.24.030 Repealed.

45.24.010 Powers and duties—General. The supervisors shall have charge of such affairs of the town as are not by law committed to other town officers. They shall have power to draw orders on the town treasurer for the disbursement of such sums as may be necessary for the purpose of defraying the incidental expenses of the town, and for all moneys raised by the town to be disbursed for any other purpose. The board of township supervisors shall be authorized to cooperate with the board of county commissioners of the county acting under the provisions of RCW 86.12.010 through 86.12-.030 in making new flood control improvements and to enter into contracts with the county to pay a certain portion of the cost of such improvements made by the county. [1977 c 15 § 1; 1919 c 108 § 2; 1911 c 34 § 1, part; 1909 c 47 § 4; 1895 c 175 § 48; RRS § 11407. Formerly RCW 45.24.010 and 45.24.020.]

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

Chapter 45.68 GUIDEPOSTS

Sections

- 45.68.010 through 45.68.050 Repealed.

45.68.010 through 45.68.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 46 MOTOR VEHICLES

Chapters

- 46.01 Department of licensing.
46.04 Definitions.
46.08 General provisions.
46.09 Off-road and nonhighway vehicles.
46.16 Vehicle licenses.
46.20 Drivers' licenses—Identicards.
46.29 Financial responsibility.
46.37 Vehicle lighting and other equipment.
46.39 Interstate compact for school bus safety.

46.44	Size, weight, load.
46.52	Accidents—Reports—Abandoned vehicles.
46.61	Rules of the road.
46.65	Washington habitual traffic offenders act.
46.68	Disposition of revenue.
46.70	Unfair motor vehicle business practices—Dealers' and salesmen's licenses.
46.71	Automotive repair.
46.76	Motor vehicle transporters.
46.80	Motor vehicle wreckers.
46.81	Traffic safety education courses.
46.85	Reciprocal or proportional registration of vehicles.
46.90	Washington model traffic ordinance.

Chapter 46.01

DEPARTMENT OF LICENSING

(Formerly: Department of Motor Vehicles)

Sections

46.01.010	Repealed.
46.01.011	Purpose.
46.01.020	Department created—Powers, duties, and jurisdiction.
46.01.060	Repealed.
46.01.061	Transfer of property, records, funds, appropriations, etc. of department of motor vehicles.
46.01.080	Repealed.
46.01.120	Repealed.
46.01.170	Seal.
46.01.200	Repealed.
46.01.290	Director to make annual reports to governor.

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

46.01.011 Purpose. The legislature finds that the department of motor vehicles administers laws relating to the licensing and regulation of professions, businesses, securities, gambling, and other activities in addition to administering laws relating to the licensing and regulation of vehicles and vehicle operators, dealers, and manufacturers. The present title of the department does not properly indicate its responsibility and creates confusion in the mind of the public. The laws administered by the department have the common denominator of licensing and regulation and are directed toward protecting and enhancing the well-being of the residents of the state. It is the purpose of *this 1977 amendatory act to change the name of the department of motor vehicles to the department of licensing in order to accurately reflect the responsibilities and functions of the department. [1977 1st ex.s. c 334 § 1.]

*Reviser's note: "this 1977 amendatory act" consisted of the enactment of RCW 46.01.011 and 46.01.061, the amendment of RCW 43.17.010, 43.17.020, 46.01.020, and 46.01.170, and the repeal of RCW 46.01.010, 46.01.060, 46.01.080, 46.01.120, and 46.01.200.

Effective date—1977 1st ex.s. c 334: "This 1977 amendatory act shall take effect on July 1, 1977." [1977 1st ex.s. c 334 § 8.]

46.01.020 Department created—Powers, duties, and jurisdiction. (1) A department of the government of

this state to be known as the "department of licensing" is hereby created.

(2) The department shall succeed to and is hereby vested with all powers, duties and jurisdiction relating to motor vehicles now vested in the director of licenses.

(3) All powers, functions, and duties vested by law in the director of motor vehicles or in the department of motor vehicles on or before June 30, 1977, shall be considered powers, functions, and duties of the director of licensing or the department of licensing, respectively, and all rules of the director of motor vehicles on or before June 30, 1977, shall be considered rules of the director of licensing.

(4) Any references in the Revised Code of Washington to the director of motor vehicles or the department of motor vehicles shall be considered to be references to the director of licensing or to the department of licensing, respectively. [1977 1st ex.s. c 334 § 2; 1965 c 156 § 2.]

Effective date—1977 1st ex.s. c 334: See note following RCW 46.01.011.

Powers, duties, and functions of department of licensing as to licensure of businesses, professions, etc., and regulation of securities: Chapter 43.24 RCW.

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

46.01.061 Transfer of property, records, funds, appropriations, etc. of department of motor vehicles. All records, books, accounts, equipment, funds, appropriations, and all other property, real, personal, and mixed, held by the department of motor vehicles on June 30, 1977, shall be held by the department of licensing. [1977 1st ex.s. c 334 § 3.]

Effective date—1977 1st ex.s. c 334: See note following RCW 46.01.011.

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

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

46.01.170 Seal. The department shall have an official seal with the words "Department of Licensing of Washington" engraved thereon. [1977 1st ex.s. c 334 § 4; 1965 c 156 § 17.]

Effective date—1977 1st ex.s. c 334: See note following RCW 46.01.011.

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

46.01.290 Director to make annual reports to governor. The director shall report annually to the governor on the activities of the department. [1977 c 75 § 66; 1967 c 32 § 5; 1965 c 28 § 1; 1961 ex.s. c 21 § 29. Formerly RCW 46.08.200.]

**Chapter 46.04
DEFINITIONS**

Sections

46.04.302 Mobile home.
46.04.500 Roadway.

46.04.302 Mobile home. "Mobile home" means a structure, transportable in one or more sections, which is thirty-two body feet or more in length and is eight body feet or more in width, and which is built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein, except as hereinafter specifically excluded, and excluding modular homes. [1977 1st ex.s. c 22 § 1; 1971 ex.s. c 231 § 4.]

Severability—1977 1st ex.s. c 22: "If any section or provision of this 1977 amendatory act, or its application to any person or circumstances is held invalid, the remainder of the act, or the application of the section or provision to other persons or circumstances is not affected." [1977 1st ex.s. c 22 § 10.]

This applies to the amendments to RCW 46.04.302, 46.16.160, 82.50.010, and 84.60.020, to the enactment of RCW 36.21.090, 46.44.170, 46.44.173, and 46.44.175, and to the repeal of RCW 46.16.104, 46.16.105, 46.16.106 and 82.50.902.

Effective date—1971 ex.s. c 231: See note following RCW 46.01.130.

46.04.500 Roadway. "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the sidewalk or shoulder even though such sidewalk or shoulder is used by persons riding bicycles. In the event a highway includes two or more separated roadways, the term "roadway" shall refer to any such roadway separately but shall not refer to all such roadways collectively. [1977 c 24 § 1; 1961 c 12 § 46.04.500. Prior: 1959 c 49 § 54; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

**Chapter 46.08
GENERAL PROVISIONS**

Sections

46.08.060 Repealed.

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

**Chapter 46.09
OFF-ROAD AND NONHIGHWAY VEHICLES**

(Formerly: All-Terrain Vehicles)

Sections

46.09.020 Definitions.
46.09.030 Use permits—Issuance—Fees.
46.09.040 Use permit prerequisite to operation.
46.09.050 Vehicles exempted from ORV use permits and tags.
46.09.060 ORV use permit period.

46.09.070 Application for ORV use permit—Number—Fee—Renewal—Application when transfer in ownership—Fee—Application for nonresident owners—Fee—Permit.
46.09.080 ORV dealers—Permits—Fees—Number plates—Violations.
46.09.090 Display of use permit and dealer tags.
46.09.110 Disposition of ORV use permit fees.
46.09.120 Operating violations.
46.09.130 Additional violations—Penalty.
46.09.140 Accident reports.
46.09.150 Motor vehicle fuel excise taxes on fuel for nonhighway vehicles not refundable under RCW 82.36.280.
46.09.170 Refunds from motor vehicle fund—Distribution—Use.
46.09.175 Repealed.
46.09.180 Local political subdivisions or state agencies may regulate operation of nonhighway vehicles.
46.09.190 General penalty—Civil liability.
46.09.210 Repealed.
46.09.220 Repealed.
46.09.240 Administration and distribution of ORV moneys.
46.09.250 State-wide ORV plan.
46.09.260 ORV advisory committee.
46.09.270 Program of ORV user education and information—Advisory committee.

46.09.020 Definitions. As used in this chapter the following words and phrases shall have the designated meanings unless a different meaning is expressly provided or the context otherwise clearly indicates:

"Person" shall mean any individual, firm, partnership, association or corporation.

"Nonhighway vehicle" shall mean any self-propelled vehicle when used for recreation travel on trails and nonhighway roads or for recreation cross-country travel on any one of the following or a combination thereof: Land, water, snow, ice, marsh, swampland, and other natural terrain. Such vehicles shall include but are not limited to, two or four-wheel drive vehicles, motorcycles, dune buggies, amphibious vehicles, ground effects or air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind.

Nonhighway vehicle does not include:

- (1) Any vehicle designed primarily for travel on, over, or in the water;
- (2) Snowmobiles or any military vehicles; or
- (3) Any vehicle eligible for a motor vehicle fuel tax exemption or rebate under chapter 82.36 RCW while an exemption or rebate is claimed. This exemption includes but is not limited to farm, construction, and logging vehicles.

"Off-road vehicle" or "ORV" means any nonhighway vehicle when used for cross-country travel on trails or on any one of the following or a combination thereof: Land, water, snow, ice, marsh, swampland and other natural terrain.

"ORV use permit" shall mean the permit system established for off-road vehicles in this state under this chapter.

"ORV trail" shall mean a corridor designated and maintained for recreational travel by off-road vehicles which is not normally suitable for travel by conventional two-wheel drive vehicles and where it is posted or designated by the managing authority of the property that the trail traverses as permitting ORV travel.

"ORV use area" means the entire area of a parcel of land except for camping and approved buffer areas where it is posted or designated for ORV use in accordance with rules adopted by the managing authority.

"Owner" shall mean the person other than the lienholder, having an interest in or title to a nonhighway vehicle, and entitled to the use or possession thereof.

"Operator" means each person who operates, or is in physical control of, any nonhighway vehicle.

"ORV moneys" shall mean those moneys derived from motor vehicle excise taxes on fuel used and purchased for providing the motive power for nonhighway vehicles as described in RCW 46.09.150, ORV use permit fees, and ORV dealer permit fees, provided these moneys are:

- (1) Credited to the outdoor recreation account; or
- (2) Credited to the ORV account for user education or for acquisition, planning, development, maintenance, and management of designated off-road vehicle trails and areas.

"Dealer" means a person, partnership, association, or corporation engaged in the business of selling off-road vehicles at wholesale or retail in this state.

"Department" shall mean the department of motor vehicles.

"Director" shall mean the director of the department of motor vehicles.

"Committee" shall mean the interagency committee for outdoor recreation.

"Hunt" shall mean any effort to kill, injure, capture, or purposely disturb a wild animal or wild bird.

"Nonhighway road" shall mean any road other than a highway generally capable of travel by a conventional two-wheel drive passenger automobile during most of the year and in use by such vehicles and which are private roads or controlled and maintained by the department of natural resources, the state parks and recreation commission and the state game department: *Provided*, That such roads are not built or maintained by appropriations from the motor vehicle fund.

"Highway" for the purpose of this chapter only shall mean the entire width between the boundary lines of every way publicly maintained by the state department of highways or any county or city when any part thereof is generally open to the use of the public for purposes of vehicular travel as a matter of right.

"Organized competitive event" shall mean any competition, advertised in advance through written notice to organized clubs or published in local newspapers, sponsored by recognized clubs, and conducted at a predetermined time and place. [1977 1st ex.s. c 220 § 1; 1972 ex.s. c 153 § 3; 1971 ex.s. c 47 § 7.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Purpose—1972 ex.s. c 153: See RCW 67.32.080.

46.09.030 Use permits—Issuance—Fees. The department shall provide for the issuance of use permits for off-road vehicles and may appoint agents for collecting fees and issuing permits. The provisions of RCW

46.01.130 and 46.01.140 shall apply to the issuance of use permits for off-road vehicles as they do to the issuance of vehicle licenses, the appointment of agents and the collection of application fees: *Provided*, That filing fees for ORV use permits collected by the director shall be certified to the state treasurer and deposited as specified in RCW 46.09.110. [1977 1st ex.s. c 220 § 2; 1972 ex.s. c 153 § 4; 1971 ex.s. c 47 § 8.]

Purpose—1972 ex.s. c 153: See RCW 67.32.080.

46.09.040 Use permit prerequisite to operation. Except as provided in this chapter, no person shall operate any off-road vehicle within this state after January 1, 1978, unless the off-road vehicle has been assigned an ORV use permit and displays a current ORV tag in accordance with the provisions of this chapter: *Provided*, That registration and display of an unexpired ATV use permit shall be deemed to have complied with this section. [1977 1st ex.s. c 220 § 3; 1972 ex.s. c 153 § 5; 1971 ex.s. c 47 § 9.]

Purpose—1972 ex.s. c 153: See RCW 67.32.080.

46.09.050 Vehicles exempted from ORV use permits and tags. ORV use permits and ORV tags shall be required under the provisions of this chapter except for the following:

(1) Off-road vehicles owned and operated by the United States, another state, or a political subdivision thereof.

(2) Off-road vehicles owned and operated by this state, or by any municipality or political subdivision thereof.

(3) An off-road vehicle operating in an organized competitive event on privately owned or leased land: *Provided*, That if such leased land is owned by the state of Washington this exemption shall not apply unless the state agency exercising jurisdiction over the land in question specifically authorizes said competitive event: *Provided further*, That such exemption shall be strictly construed.

(4) Off-road vehicles operated on lands owned or leased by the ORV owner or operator or on lands which the operator has permission to operate without an ORV use permit.

(5) An off-road vehicle owned by a resident of another state if that off-road vehicle is registered in accordance with the laws of the other state. This exemption shall apply only to the extent that a similar exemption or privilege is granted under the laws of that state, except that any off-road vehicle which is validly registered in another state and which is physically located in this state for a period of more than fifteen consecutive days shall be required to obtain a Washington state ORV use permit.

(6) Off-road vehicles while being used for search and rescue purposes under the authority or direction of an appropriate search and rescue or law enforcement agency.

(7) Vehicles used primarily for construction or inspection purposes during the course of a commercial operation.

(8) Vehicles which are licensed pursuant to chapter 46.16 RCW or in the case of nonresidents, vehicles which are validly licensed for operation over public highways in the jurisdiction of the owner's residence. [1977 1st ex.s. c 220 § 4; 1972 ex.s. c 153 § 6; 1971 ex.s. c 47 § 10.]

Purpose—1972 ex.s. c 153: See RCW 67.32.080.

46.09.060 ORV use permit period. The ORV use permit period established by the department shall be concurrent with the registration period established by the department for motor vehicles pursuant to chapter 46.16 RCW. [1977 1st ex.s. c 220 § 5; 1972 ex.s. c 153 § 7; 1971 ex.s. c 47 § 11.]

Reviser's note: The "department of motor vehicles" redesignated "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Purpose—1972 ex.s. c 153: See RCW 67.32.080.

46.09.070 Application for ORV use permit—Number—Fee—Renewal—Application when transfer in ownership—Fee—Application for non-resident owners—Fee—Permit. Application for an ORV use permit shall be made to the department or its authorized agent in such manner and upon such forms as the department shall prescribe, shall state the name and address of each owner of the off-road vehicle, shall be signed by at least one such owner, and shall be accompanied by a use permit fee of five dollars.

Upon receipt of the application and the application fee, the off-road vehicle shall be assigned a use permit number tag or decal, which shall be affixed to the off-road vehicle in a manner prescribed by the department. The department may utilize applications, registration and license forms, and registration numbering provided for use prior to September 21, 1977.

The ORV use permit provided in this section shall be valid for a period of one year. Use permits shall be renewable each year in such manner as the department may prescribe for an additional period of one year upon payment of a renewal fee of five dollars.

Any person acquiring an off-road vehicle for which a use permit has been issued under the provisions of this chapter who desires to continue to use the permit must, within fifteen days of the acquisition or purchase of the off-road vehicle, make application to the department or its authorized agent for transfer of the ORV use permit, and such application shall be accompanied by a transfer fee of one dollar.

Except as provided in RCW 46.09.050, any out-of-state owner of an off-road vehicle shall, when operating in this state, comply with the provisions of this chapter and if an ORV use permit is required under this chapter, the owner shall obtain a nonresident ORV use permit number and tag, valid for not more than sixty days or an annual permit and tag. Application for such a permit shall state name and address of each owner of the off-road vehicle, shall be signed by at least one such owner, and shall be accompanied by a fee of two dollars. The permit shall be carried on the vehicle at all times during its operation in this state. [1977 1st ex.s. c 220 § 6; 1972 ex.s. c 153 § 8; 1971 ex.s. c 47 § 12.]

Purpose—1972 ex.s. c 153: See RCW 67.32.080.

46.09.080 ORV dealers—Permits—Fees—Number plates—Violations. (1) Each dealer of off-road vehicles in this state who does not have a current "dealer's plate" for vehicle use pursuant to chapter 46.70 RCW, shall obtain a dealer ORV permit from the department in such manner and upon such forms as the department shall prescribe. Upon receipt of a dealer's application for a dealer ORV permit and the fee provided for in subsection (2) of this section, such dealer shall be registered and an ORV dealer permit number assigned.

(2) The ORV fee for dealers shall be twenty-five dollars per year, which shall be deposited in the outdoor recreation account, and such fee shall cover all of the off-road vehicles owned by a dealer and not rented: *Provided*, That off-road vehicles rented on a regular, commercial basis by a dealer shall have separate use permits.

(3) Upon the issuance of an ORV dealer permit each dealer shall purchase, at a cost to be determined by the department, ORV dealer number plates of a size and color to be determined by the department, which shall contain the dealer ORV permit number assigned to the dealer. Each off-road vehicle operated by a dealer for the purposes of testing or demonstration shall display such number plates assigned pursuant to the dealer permit provisions in chapter 46.70 RCW or this section, in a clearly visible manner.

(4) No person other than a dealer or a representative thereof shall display number plates as prescribed in subsection (3) of this section, and no dealer or representative thereof shall use such number plates for any purpose other than the purpose prescribed in subsection (3) of this section.

(5) ORV dealer permit numbers shall be nontransferable.

(6) On and after January 1, 1978, it shall be unlawful for any dealer to sell any off-road vehicle at wholesale or retail, or to test or demonstrate any off-road vehicle within the state, unless he has a motor vehicle dealers' license pursuant to chapter 46.70 RCW or an ORV dealer permit number in accordance with the provisions of this section. [1977 1st ex.s. c 220 § 7; 1972 ex.s. c 153 § 9; 1971 ex.s. c 47 § 13.]

Purpose—1972 ex.s. c 153: See RCW 67.32.080.

46.09.090 Display of use permit and dealer tags. All ORV use permit tags and ORV dealer tags shall be displayed in a manner prescribed by the department on off-road vehicles when required by this chapter except as provided in RCW 46.09.050. [1977 1st ex.s. c 220 § 8; 1972 ex.s. c 153 § 10; 1971 ex.s. c 47 § 14.]

Purpose—1972 ex.s. c 153: See RCW 67.32.080.

46.09.110 Disposition of ORV use permit fees. The moneys collected by the department as ORV use permit fees shall be distributed from time to time but at least once a year in the following manner:

(1) The department shall retain enough money to cover expenses incurred in the administration of this chapter: *Provided*, That such retention shall never exceed eighteen percent of fees collected.

(2) Twenty percent of the moneys shall be placed in the ORV account, which is hereby established, in the general fund and shall be administered by the department of natural resources as ORV moneys. The department of natural resources shall use these moneys to develop a state-wide program of ORV user education and information. Any portion of these moneys not used to develop an ORV user education and information program shall be deposited in the outdoor recreation account and shall be distributed by the interagency committee for outdoor recreation under RCW 46.09.240.

(3) The remaining moneys shall be credited to the outdoor recreation account of the general fund as ORV moneys and shall be distributed by the interagency committee for outdoor recreation as specified in RCW 46.09.240. [1977 1st ex.s. c 220 § 9; 1972 ex.s. c 153 § 11; 1971 ex.s. c 47 § 16.]

Purpose—1972 ex.s. c 153: See RCW 67.32.080.

46.09.120 Operating violations. It shall be unlawful for any person to operate any nonhighway vehicle:

(1) While under the influence of intoxicating liquor or a controlled substance;

(2) In such a manner as to endanger the property of another;

(3) On lands not owned by the operator or owner of the nonhighway vehicle without a lighted headlight and taillight between the hours of dusk and dawn, or when otherwise required for the safety of others regardless of ownership;

(4) On lands not owned by the operator or owner of the nonhighway vehicle without an adequate braking device or when otherwise required for the safety of others regardless of ownership;

(5) Without a spark arrester approved by the department of natural resources;

(6) Without an adequate, and operating, muffling device which effectively limits vehicle noise to no more than eighty-six decibels on the "A" scale at fifty feet as measured by the Society of Automotive Engineers (SAE) test procedure J 331a, except that a maximum noise level of one hundred and five decibels on the "A" scale at a distance of twenty inches from the exhaust outlet shall be an acceptable substitute in lieu of the Society of Automotive Engineers test procedure J 331a when measured:

(a) At a forty-five degree angle at a distance of twenty inches from the exhaust outlet;

(b) With the vehicle stationary and the engine running at a steady speed equal to one-half of the manufacturer's maximum allowable ("red line") engine speed or where the manufacturer's maximum allowable engine speed is not known the test speed in revolutions per minute calculated as sixty percent of the speed at which maximum horsepower is developed; and

(c) With the microphone placed ten inches from the side of the vehicle, one-half way between the lowest part

of the vehicle body and the ground plane, and in the same lateral plane as the rearmost exhaust outlet where the outlet of the exhaust pipe is under the vehicle;

(7) On lands not owned by the operator or owner of the nonhighway vehicle upon the shoulder or inside bank or slope of any nonhighway road or highway, or upon the median of any divided highway;

(8) On lands not owned by the operator or owner of the nonhighway vehicle in any area or in such a manner so as to unreasonably expose the underlying soil, or to create an erosion condition, or to injure, damage, or destroy trees, growing crops, or other vegetation;

(9) On lands not owned by the operator or owner of the nonhighway vehicle or on any nonhighway road or trail which is restricted to pedestrian or animal travel; and

(10) On any public lands in violation of rules and regulations of the agency administering such lands. [1977 1st ex.s. c 220 § 10; 1972 ex.s. c 153 § 12; 1971 ex.s. c 47 § 17.]

Purpose—1972 ex.s. c 153: See RCW 67.32.080.

46.09.130 Additional violations—Penalty. No person shall operate a nonhighway vehicle in such a way as to endanger human life or to run down or harass deer, elk, or any other wildlife, or any domestic animal, nor carry, transport, or convey any loaded weapon in or upon, nor hunt from, any nonhighway vehicle.

Violation of this section shall constitute a gross misdemeanor. [1977 1st ex.s. c 220 § 11; 1971 ex.s. c 47 § 18.]

46.09.140 Accident reports. The operator of any nonhighway vehicle involved in any accident resulting in injury to or death of any person, or property damage to another in the estimated amount of two hundred dollars or more, or a person acting for the operator shall submit such reports as are required under chapter 46.52 RCW, as now enacted or as hereafter amended, and the provisions of chapter 46.52 RCW shall be applicable to such reports when submitted. [1977 1st ex.s. c 220 § 12; 1971 ex.s. c 47 § 19.]

46.09.150 Motor vehicle fuel excise taxes on fuel for nonhighway vehicles not refundable under RCW 82.36.280. Motor vehicle fuel excise taxes paid on fuel used and purchased for providing the motive power for nonhighway vehicles shall not be refundable in accordance with the provisions of RCW 82.36.280 as it now exists or is hereafter amended. [1977 1st ex.s. c 220 § 13; 1974 ex.s. c 144 § 1; 1972 ex.s. c 153 § 13; 1971 ex.s. c 47 § 20.]

Purpose—1972 ex.s. c 153: See RCW 67.32.080.

46.09.170 Refunds from motor vehicle fund—Distribution—Use. (1) From time to time, but at least once each year, the director of the department of motor vehicles shall request the state treasurer to refund from the motor vehicle fund one percent of the motor vehicle fuel tax revenues collected pursuant to chapter 82.36 RCW, less proper deductions for refunds and costs of

collection as provided in RCW 46.68.090. The treasurer shall place these funds in the general fund as follows:

(a) Twenty-five percent shall be credited to the ORV account and administered by the department of natural resources solely for the acquisition, planning, development, maintenance, and management of nonhighway roads and recreation facilities;

(b) Three and one-half percent shall be credited to the ORV account and administered by the department of game solely for the acquisition, planning, development, maintenance, and management of nonhighway roads and recreation facilities;

(c) Twenty percent shall be credited to the ORV account and administered by the department of natural resources and shall be designated as ORV moneys to be used only for the acquisition, planning, development, maintenance, and management of designated off-road vehicle trails and areas; to construct campgrounds and trailheads which are necessary for the convenient use of designated ORV trails and areas; and to maintain those campgrounds and trailheads specifically constructed with ORV moneys: *Provided, however,* That the department of natural resources, two months prior to the acquisition and development of such trails, areas, campgrounds and trailheads for off-road vehicles, shall conduct a public hearing at a suitable location in the nearest town of five hundred population or more, and the department shall publish a notice of such hearing on the same day of each week for two consecutive weeks in a legal newspaper of general circulation in the county or counties where the property which is the subject of the proposed facility is located. The department of natural resources shall further file such notice of hearing with the department of ecology at the main office in Olympia and shall comply with the provisions of the state environmental policy act, chapter 43.21C RCW and regulations promulgated thereunder; and

(d) Fifty-one and one-half percent shall be credited to the outdoor recreation account and designated as ORV moneys to be administered by the interagency committee for outdoor recreation and distributed in accordance with RCW 46.09.240.

(2) On a yearly basis no agency may expend more than thirteen percent of its share of the above amounts for general administration expenses incurred in carrying out the provisions of this chapter, and not more than fifty percent of its share of said amount for education and law enforcement programs related to nonhighway vehicles.

(3) ORV moneys shall be expended only for the acquisition, planning, development, maintenance, and management of off-road vehicle trails and areas; for education and law enforcement programs related to nonhighway vehicles; to construct campgrounds and trailheads which are necessary for the convenient use of designated ORV trails and areas; and to maintain those campgrounds and trailheads specifically constructed with ORV moneys. [1977 1st ex.s. c 220 § 14; 1975 1st ex.s. c 34 § 1; 1974 ex.s. c 144 § 3; 1972 ex.s. c 153 § 15; 1971 ex.s. c 47 § 22.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Effective date—1975 1st ex.s. c 34: "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 34 § 4.]

Purpose—1972 ex.s. c 153: See RCW 67.32.080.

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

46.09.180 Local political subdivisions or state agencies may regulate operation of nonhighway vehicles. Notwithstanding any of the provisions of this chapter, any city, county, or other political subdivision of this state, or any state agency, may regulate the operation of nonhighway vehicles on public lands, waters, and other properties under its jurisdiction, and on streets or highways within its boundaries by adopting regulations or ordinances of its governing body, provided such regulations are not less stringent than the provisions of this chapter. [1977 1st ex.s. c 220 § 15; 1971 ex.s. c 47 § 23.]

46.09.190 General penalty—Civil liability. (1) Except as provided in RCW 46.09.130 as now or hereafter amended, any person violating the provisions of this chapter shall be guilty of a misdemeanor and subject to a fine of not less than twenty-five dollars.

(2) In addition to the penalties provided in subsection (1) of this section, the owner and/or the operator of any nonhighway vehicle shall be liable for any damage to property including damage to trees, shrubs, growing crops injured as the result of travel by the nonhighway vehicle. The owner of such property may recover from the person responsible three times the amount of damage. [1977 1st ex.s. c 220 § 16; 1972 ex.s. c 153 § 16; 1971 ex.s. c 47 § 24.]

Purpose—1972 ex.s. c 153: See RCW 67.32.080.

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

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

46.09.240 Administration and distribution of ORV moneys. (1) The moneys deposited in the outdoor recreation account of the general fund derived from ORV use permit fees, ORV dealer permit fees, and motor vehicle excise taxes on fuel used and purchased for providing the motive power for nonhighway vehicles shall be administered by the interagency committee for outdoor recreation and shall be distributed at least once each year to state agencies, counties, and municipalities. The interagency committee for outdoor recreation may make intergovernmental agreements with federal agencies for the use of ORV moneys. The agreements shall contain the conditions for the use of these moneys.

The committee shall prescribe methods, rules, and standards by which agencies may apply for and obtain

moneys and shall determine the amount of money distributed to each applicant: *Provided*, That agencies constructing off-road vehicle trails, campgrounds, and recreational areas and facilities shall consider the possibility of contracting with the state parks and recreation commission, the department of natural resources, or other federal, state and local agencies to employ the youth development and conservation corps or other youth crews to construct or assist in construction of such off-road vehicle trails, campgrounds, and recreational areas and facilities.

(2) The interagency committee shall require that each applicant conduct a public hearing in the nearest town of five hundred population or more, and publish notice of such hearing on the same day of each week for two consecutive weeks in a newspaper of general circulation in the county or counties where the property which is subject of the proposed facility is located prior to the submission of its application. A written record and a magnetic tape recording of such hearings shall be included in the application to the committee.

(3) The interagency committee for outdoor recreation shall retain enough money from ORV moneys to cover expenses incurred in the administration of this chapter except that after June 30, 1979, the retention shall not exceed, on a yearly basis, three percent of the ORV moneys deposited in the outdoor recreation account. [1977 1st ex.s. c 220 § 17.]

46.09.250 State-wide ORV plan. Between June 30, 1977 and June 30, 1979 the interagency committee for outdoor recreation shall develop or cause to be developed a state-wide ORV plan which shall determine and reflect user densities and preferences and suitability and availability of designated ORV trails and areas within the state. The plan shall be maintained on a continuing basis with the plan document updated at least once every third biennium and shall be used by all participating agencies to guide distribution and expenditure of non-highway vehicle funds. [1977 1st ex.s. c 220 § 18.]

46.09.260 ORV advisory committee. The interagency committee shall establish a committee of ORV recreationists, including representatives of organized ORV recreation groups, to advise in the development of a state-wide ORV plan, the development of a project funding system, the suitability of ORV projects submitted to the interagency committee for funding and other aspects of ORV recreation as the need may arise. [1977 1st ex.s. c 220 § 19.]

46.09.270 Program of ORV user education and information—Advisory committee. The department of natural resources shall conduct a program of ORV user education and information.

The department of natural resources shall establish a committee of ORV recreationists, including representatives of organized ORV recreation groups, to advise the department relative to any ORV program developed from the funds provided in RCW 46.09.110 and 46.09.170. [1977 1st ex.s. c 220 § 20.]

Chapter 46.16 VEHICLE LICENSES

Sections

46.16.010	Licenses and plates required—Exceptions.
46.16.048	Temporary letter of authority for movement of unlicensed vehicle for special community event.
46.16.090	Gross weight fees on farm trucks—Penalty.
46.16.100	Repealed.
46.16.104	through 46.16.106 Repealed.
46.16.160	Permits for out-of-state commercial vehicles—Special one transit permits—Fees.
46.16.210	Original applications—Renewals—Fees—Pre-issuance, when.

46.16.010 Licenses and plates required—Exceptions. It shall be unlawful for a person to operate any vehicle over and along a public highway of this state without first having obtained and having in full force and effect a current and proper vehicle license and display vehicle license number plates therefor as by this chapter provided: *Provided*, That these provisions shall not apply to farm vehicle as defined in RCW 46.04.181 if operated within a radius of fifteen miles of the farm where principally used or garaged, farm tractors and farm implements including trailers designed as cook or bunk houses used exclusively for animal herding temporarily operating or drawn upon the public highways, and trailers used exclusively to transport farm implements from one farm to another during the daylight hours or at night when such equipment has lights that comply with the law: *Provided further*, That these provisions shall not apply to spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation, and nurse rigs or equipment auxiliary to the use of and designed or modified for the fueling, repairing or loading of spray and fertilizer applicator rigs and not used, designed or modified primarily for the purpose of transportation: *Provided further*, That these provisions shall not apply to fork lifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses which they serve: *Provided further*, That these provisions shall not apply to equipment defined as follows:

"Special highway construction equipment" is any vehicle which is designed and used primarily for grading of highways, paving of highways, earth moving, and other construction work on highways and which is not designed or used primarily for the transportation of persons or property on a public highway and which is only incidentally operated or moved over the highway. It includes, but is not limited to, road construction and maintenance machinery so designed and used such as portable air compressors, air drills, asphalt spreaders, bituminous mixers, bucket loaders, track laying tractors, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers, earth moving scrapers and carryalls, lighting plants, welders, pumps, power shovels and draglines, self-propelled and tractor-drawn earth moving equipment and machinery, including dump trucks and tractor-dump trailer combinations which either (1) are in excess of the legal width or (2) which, because of their length, height or unladen

weight, may not be moved on a public highway without the permit specified in RCW 46.44.090 and which are not operated laden except within the boundaries of the project limits as defined by the contract, and other similar types of construction equipment, or (3) which are driven or moved upon a public highway only for the purpose of crossing such highway from one property to another, provided such movement does not exceed five hundred feet and the vehicle is equipped with wheels or pads which will not damage the roadway surface.

Exclusions:

"Special highway construction equipment" does not include any of the following:

Dump trucks originally designed to comply with the legal size and weight provisions of this code notwithstanding any subsequent modification which would require a permit, as specified in RCW 46.44.090, to operate such vehicles on a public highway, including trailers, truck-mounted transit mixers, cranes and shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached. [1977 1st ex.s. c 148 § 1; 1973 1st ex.s. c 17 § 2; 1972 ex.s. c 5 § 2; 1969 c 27 § 3; 1967 c 202 § 2; 1963 ex.s. c 3 § 51; 1961 ex.s. c 21 § 32; 1961 c 12 § 46.16.010. Prior: 1955 c 265 § 1; 1947 c 33 § 1; 1937 c 188 § 15; Rem. Supp. 1947 § 6312-15; 1929 c 99 § 5; RRS § 6324.]

46.16.048 Temporary letter of authority for movement of unlicensed vehicle for special community event. The department in its discretion may issue a temporary letter of authority authorizing the movement of an unlicensed vehicle or the temporary usage of a special plate for the purpose of promoting or participating in an event such as a parade, pageant, fair, convention, or other special community activity. The letter of authority may not be issued to or used by anyone for personal gain, but public identification of the sponsor or owner of the donated vehicle shall not be considered to be personal gain. [1977 c 25 § 2.]

46.16.090 Gross weight fees on farm trucks—Penalty. Motor trucks or trailers may be specially licensed based on the maximum gross weight thereof for fifty percent of the various amounts set forth in the schedule provided in RCW 46.16.070, when such trucks or trailers are owned and operated by farmers, but only if the following condition or conditions exist:

(1) When such trucks or trailers are to be used for the transportation of such farmer's own farm, orchard or dairy products from point of production to market or warehouse, and of supplies to be used on his farm: *Provided*, That fish and forestry products shall not be considered as farm products; and/or

(2) When such trucks or trailers are to be used for the infrequent or seasonal transportation by one such farmer for another farmer in his neighborhood of products of the farm, orchard or dairy owned by such other farmer from point of production to market or warehouse, or supplies to be used on such other farm, but only if such transportation for another farmer is for compensation other than money: *Provided, however*, That farmers shall

be permitted an allowance of an additional eight thousand pounds, within the legal limits, on motor trucks or trailers, when used in the transportation of such farmer's own farm machinery between his own farm or farms and for a distance of not more than thirty-five miles from his farm or farms.

The department shall prepare a special form of application to be used by farmers applying for licenses under this section, which form shall contain a statement to the effect that the vehicle or trailer concerned will be used subject to the limitations of this section. The department shall prepare special insignia which shall be placed upon all such vehicles or trailers to indicate that the vehicle or trailer is specially licensed, or may, in its discretion, substitute a special license plate for such vehicles or trailers for such designation.

Any person who operates such a specially licensed vehicle or trailer in transportation upon public highways in violation of the limitations of this section shall be guilty of a misdemeanor. [1977 c 25 § 1; 1969 ex.s. c 169 § 1; 1961 c 12 § 46.16.090. Prior: 1957 c 273 § 13; 1955 c 363 § 6; prior: 1953 c 227 § 1; 1951 c 269 § 12; 1950 ex.s. c 15 § 1, part; 1949 c 220 § 10, part; 1947 c 200 § 15, part; 1941 c 224 § 1, part; 1939 c 182 § 3, part; 1937 c 188 § 17, part; Rem. Supp. 1949 § 6312-17, part; 1931 c 140 § 1, part; 1921 c 96 § 15, part; 1919 c 46 § 1, part; 1917 c 155 § 10, part; 1915 c 142 § 15, part; RRS § 6326, part.]

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

46.16.104 through 46.16.106 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.16.160 Permits for out-of-state commercial vehicles—Special one transit permits—Fees. Any commercial vehicle bearing valid license plates and a registration certificate of another state or territory and not registered in this state and which under reciprocal relations with that state would be required to obtain a full or proportional motor vehicle license in this state may, in lieu of a certificate of ownership and license registration, be issued a permit. Such permit shall be valid for the conduct of interstate operations only and shall be issued in such form and under such conditions as the director shall prescribe. Application for the permit shall be made to the director or his designated agent on forms provided by the director. On receiving such application, together with fees as provided herein, a permit may be issued for a period of not to exceed two hundred forty consecutive hours: *Provided, however*, That no permit shall be issued for any period less than twenty-four consecutive hours.

The director, or his designated agent, shall be authorized to issue a further permit on the same vehicle or combination of vehicles upon the expiration of any permit issued for a period less than two hundred forty consecutive hours: *Provided*, Such further permit does not extend the duration thereof to exceed two hundred forty consecutive hours on any series of consecutive permits

issued for such vehicle or combination of vehicles: *Provided, further*, That no permit, or series of permits, shall be issued for any period exceeding two hundred forty consecutive hours within any period of thirty days.

When any vehicle subject to license is to be moved upon the public highways of this state from one point to another, the department may issue a special permit therefor upon an application presented in such form as shall be approved by the department. Such permit shall be for one transit only as set forth in the application: *Provided*, That a special permit or one transit permit shall be issued for movement of a mobile home as defined in RCW 46.04.302 as now or hereafter amended, pursuant to RCW 46.44.170.

For each permit issued to a vehicle or a combination of vehicles the director, or his designated agent, shall assess an administrative charge of five dollars per permit plus the following fees for each period of twenty-four consecutive hours covered by such permit:

Vehicles or combinations of vehicles with gross weights as declared by applicant of:

0	.....	9,999 lbs.	.....	\$0.50
10,000	.....	19,999 lbs.	.....	\$1.00
20,000	.....	29,999 lbs.	.....	\$1.50
30,000	.....	35,999 lbs.	.....	\$2.00
36,000	.....	45,999 lbs.	.....	\$2.50
46,000	.....	59,999 lbs.	.....	\$3.00
60,000	.....	71,999 lbs.	.....	\$4.00
72,000	.....	75,999 lbs.	.....	\$6.00
76,000	.....	80,000 lbs.	.....	\$8.00

These fees shall not be subject to quarterly reduction as provided in RCW 46.16.130. Such vehicles will be subject to all of the laws, rules, and regulations affecting the operation of like motor vehicles in this state. The permit shall be displayed at all times in a prominent place on the vehicle, or if the vehicle is a trailer, then the permit shall be at all times in vehicle operator's possession.

The director shall have the authority to adopt rules and regulations whereby such permits can be issued to qualifying operators in advance of use and paid for as used.

All fees collected under the provisions of this chapter shall be forwarded by the director with a proper identifying detailed report to the state treasurer who shall deposit such fees to the credit of the motor vehicle fund. [1977 1st ex.s. c 22 § 5; 1975-'76 2nd ex.s. c 64 § 6; 1969 ex.s. c 170 § 8; 1961 c 306 § 1; 1961 c 12 § 46.16.160. Prior: 1957 c 273 § 3; 1955 c 384 § 17; 1949 c 174 § 1; 1947 c 176 § 1; 1937 c 188 § 24; Rem. Supp. 1949 § 6312-24.]

Severability—1977 1st ex.s. c 22: See note following RCW 46.04.302.

Effective dates—Severability—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

46.16.210 Original applications—Renewals—Fees—Preissuance, when. (1) Upon receipt of the application and proper fee for original vehicle license, the director shall make a recheck of the application and

in the event that there is any error in the application it may be returned to the county auditor or other agent to effectively secure the correction of such error, who shall return the same corrected to the director.

(2) Application for the renewal of a vehicle license shall be made to the director or his agents, including county auditors, by the registered owner on a form prescribed by the director. The application must be accompanied by the certificate of registration for the last registration period in which the vehicle was registered in Washington unless the applicant submits a preprinted application mailed from Olympia, and the payment of such license fees and excise tax as may be required by law. Such application shall be handled in the same manner and the fees transmitted to the state treasurer in the same manner as in the case of an original application. Any such application which upon validation becomes a renewal certificate need not have entered upon it the name of the lien holder, if any, of the vehicle concerned.

(3) Persons expecting to be out of the state during the normal forty-five day renewal period of a vehicle license may secure renewal of such vehicle license for a period of thirty days prior thereto and have license plates or tabs preissued by making application to the director or his agents upon forms prescribed by the director. The application must be accompanied by the certificate of registration for the last registration period in which the vehicle was registered in Washington and be accompanied by such license fees, including a special handling fee of two dollars; one dollar to be retained by the issuing agency, and one dollar to be deposited in the highway safety fund, and excise tax as may be required by law.

(4) Application for the annual renewal of a vehicle license number plate to the director or his agents shall not be required for those vehicles owned, rented, or leased by the state of Washington, or by any county, city, town, school district, or other political subdivision of the state of Washington. [1977 c 8 § 1. Prior: 1975 1st ex.s. c 169 § 6; 1975 1st ex.s. c 118 § 8; 1969 ex.s. c 75 § 1; 1961 c 12 § 46.16.210; prior: 1957 c 273 § 5; 1955 c 89 § 2; 1953 c 252 § 3; 1947 c 164 § 11; 1937 c 188 § 34; Rem. Supp. 1947 § 6312-34.]

Effective date—Severability—1975 1st ex.s. c 118: See notes following RCW 46.16.006.

Chapter 46.20

DRIVERS' LICENSES—IDENTICARDS

Sections

46.20.031	Persons ineligible to be licensed.
46.20.114	Preparation process to prevent alteration or reproduction.
46.20.270	Conviction of mandatory license suspension or revocation offense—Procedure—Court to forward records of convictions—"Conviction" defined.
46.20.293	Record of traffic charges of juveniles to be furnished juvenile court—Authority of department to furnish other requested services to court, parents, or guardians.
46.20.308	Implied consent—Revocation, etc., for refusal to submit to chemical tests to determine alcoholic content of blood.

46.20.031 Persons ineligible to be licensed. The department shall not issue a driver's license hereunder:

(1) To any person who is under the age of sixteen years;

(2) To any person whose license has been suspended during such suspension, nor to any person whose license has been revoked, except as provided in RCW 46.20.311;

(3) To any person when the department has been notified by a court that such person has violated his written promise to appear in court, unless the department has received a certificate from the court in which such person promised to appear, showing that the case has been adjudicated. The deposit of bail by a person charged with a violation of any law regulating the operation of motor vehicles on highways shall be deemed an appearance in court for the purpose of this section;

(4) To any person who (a) is an habitual user of narcotic drugs, or is an habitual user of any other drug to a degree which renders him incapable of safely driving a motor vehicle; or (b) habitually lacks self-control as to the use of alcoholic beverages, or uses alcoholic beverages to the extent that his health is substantially impaired or endangered or his social or economic function is disrupted so as to constitute a danger to other persons or property: *Provided*, That a license may be issued if the department determines that such person is participating in an alcoholism recovery program acceptable to the department and has established control of his alcoholic condition;

(5) To any person who has previously been adjudged to be mentally ill or insane, or to be incompetent due to any mental disability or disease, and who has not at the time of application been restored to competency by the methods provided by law: *Provided, however*, That no person so adjudged shall be denied a license for such cause if the superior court should find him able to operate a motor vehicle with safety upon the highways during such incompetency;

(6) To any person who is required by this chapter to take an examination, unless such person shall have successfully passed such examination;

(7) To any person who is required under the laws of this state to deposit proof of financial responsibility and who has not deposited such proof;

(8) To any person when the department has good and substantial evidence to reasonably conclude that such person by reason of physical or mental disability would not be able to operate a motor vehicle with safety upon the highways; subject to review by a court of competent jurisdiction. [1977 1st ex.s. c 162 § 1; 1965 ex.s. c 121 § 4.]

46.20.114 Preparation process to prevent alteration or reproduction. On and after January 1, 1978, the department shall implement and use such process or processes in the preparation and issuance of drivers' licenses and identicards that prohibit as nearly as possible the alteration or reproduction of such cards, or the superimposing of other photographs on such cards, without ready detection. [1977 1st ex.s. c 27 § 2.]

Purpose—1977 1st ex.s. c 27: "The legislature finds that the falsification of cards and licenses is a serious social problem creating economic hardship and problems which impede the efficient conduct of commerce and government. The legislature is particularly concerned that the increasing use of false drivers' licenses and identicards to purchase liquor, to cash bad checks, and to obtain food stamps and other benefits is causing the loss of liquor licenses, the loss of jobs, the loss of income, and the loss of human life in addition to significant monetary losses in business and government. It is the purpose of *section 2 of this act to require an effective means of rendering drivers' licenses and identicards as immune as possible from alteration and counterfeiting in order to promote the public health and safety of the people of this state." [1977 1st ex.s. c 27 § 1.]

***Reviser's note:** "section 2 of this act" (1977 1st ex.s. c 27 § 2) is codified as RCW 46.20.114.

46.20.270 Conviction of mandatory license suspension or revocation offense—Procedure—Court to forward records of convictions—"Conviction" defined.

(1) Whenever any person is convicted of any offense for which this title makes mandatory the suspension or revocation of the driver's license of such person by the department, the privilege of the person to operate a vehicle is suspended until the department takes the action required by this chapter, and the court in which such conviction is had shall forthwith secure the immediate forfeiture of the driver's license of such convicted person and immediately forward such driver's license to the department, and on failure of such convicted person to deliver such driver's license the judge shall cause such person to be confined for the period of such suspension or revocation or until such driver's license is delivered to such judge: *Provided*, That in the event such convicted person shall testify that he does not and at the time of the offense did not have a current and valid vehicle driver's license, then the judge shall cause such person to be charged with the operation of a motor vehicle without a current and valid driver's license and on conviction punished as by law provided, and the department shall not issue a driver's license to such persons during the period of such suspension or revocation: *Provided, also*, That in the event that the driver's license of such convicted person has been lost or destroyed and such convicted person shall make an affidavit to that effect, sworn to before the judge, he shall not be so confined, but the department shall not issue or reissue a driver's license for such convicted person during the period of such suspension or revocation: *Provided*, That perfection of notice of appeal shall stay the execution of sentence including the suspension and/or revocation of the driver's license.

(2) Every court having jurisdiction over offenses committed under this chapter, or any other act of this state or municipal ordinance adopted by a local authority regulating the operation of motor vehicles on highways, or any federal authority having jurisdiction over offenses substantially the same as those set forth in Title 46 RCW which occur on federal installations within this state, shall forward to the department within ten days of a forfeiture of bail or collateral deposited to secure the defendant's appearance in court, or a payment of a fine, or a plea of guilty or a finding of guilt, an abstract of the court record in the form prescribed by rule of the supreme court, showing the conviction of any person in said court for a violation of any said laws other than

regulations governing standing or parking, and may recommend the suspension of the driver's license of the person so convicted.

(3) For the purposes of Title 46 RCW the term "conviction" shall mean a final conviction in a state or municipal court or by any federal authority having jurisdiction over offenses substantially the same as those set forth in Title 46 RCW which occur on federal installations in this state, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt on a traffic law violation charge, regardless of whether the imposition of sentence is deferred or the penalty is suspended. [1977 1st ex.s. c 3 § 1; 1967 ex.s. c 145 § 55; 1965 ex.s. c 121 § 22; 1961 c 12 § 46.20.270. Prior: 1937 c 188 § 68; RRS § 6312-68; prior: 1923 c 122 § 2, part; 1921 c 108 § 9, part; RRS § 6371, part.]

Severability—1967 ex.s. c 145: See RCW 47.98.043.

46.20.293 Record of traffic charges of juveniles to be furnished juvenile court—Authority of department to furnish other requested services to court, parents, or guardians. The department is authorized to provide juvenile courts with the department's record of traffic charges compiled under RCW 46.52.100 and *13.04-.120, against any juvenile upon the request of any state juvenile court or duly authorized officer of any juvenile court of this state. Further, the department is authorized to provide any juvenile court with any requested service which the department can reasonably perform which is not inconsistent with its legal authority which substantially aids juvenile courts in handling traffic cases and which promotes highway safety.

The department is authorized to furnish to the parent, parents, or guardian of any person under eighteen years of age who is not emancipated from such parent, parents, or guardian, the department records of traffic charges compiled against said person and shall collect for said copy a fee of one dollar and fifty cents to be deposited in the highway safety fund. [1977 1st ex.s. c 3 § 2; 1971 ex.s. c 292 § 45; 1969 ex.s. c 170 § 14; 1967 c 167 § 10.]

*Reviser's note: RCW 13.04.120 was repealed by 1977 1st ex.s. c 291 § 81.

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

46.20.308 Implied consent—Revocation, etc., for refusal to submit to chemical tests to determine alcoholic content of blood.

Liability of medical personnel withdrawing blood: RCW 46.61.508.

Chapter 46.29

FINANCIAL RESPONSIBILITY

Sections

SECURITY FOLLOWING ACCIDENT

46.29.060 Application of sections requiring deposit of security and suspensions for failure to deposit security.

SECURITY FOLLOWING ACCIDENT

46.29.060 Application of sections requiring deposit of security and suspensions for failure to deposit security.

The provisions of this chapter, requiring deposit of security and suspensions for failure to deposit security, subject to certain exemptions, shall apply to the driver and owner of any vehicle of a type subject to registration under the motor vehicle laws of this state which is in any manner involved in an accident within this state, which accident has resulted in bodily injury or death of any person or damage to the property of any one person of three hundred dollars or more. [1977 1st ex.s. c 369 § 1; 1971 ex.s. c 22 § 2; 1963 c 169 § 6.]

Chapter 46.37

VEHICLE LIGHTING AND OTHER EQUIPMENT

Sections

- 46.37.010 Scope and effect of regulations—General penalty.
- 46.37.020 When lighted lamps and signaling devices are required.
- 46.37.030 Visibility distance and mounted height of lamps.
- 46.37.040 Head lamps on motor vehicles.
- 46.37.050 Tail lamps.
- 46.37.060 Reflectors.
- 46.37.070 Stop lamps and turn signals required.
- 46.37.080 Application of succeeding sections.
- 46.37.090 Additional equipment required on certain vehicles.
- 46.37.110 Mounting of reflectors, clearance lamps, identification lamps, and side marker lamps.
- 46.37.120 Visibility of reflectors, clearance lamps, identification lamps, and side marker lamps.
- 46.37.140 Lamps, reflectors, and flags on projecting load.
- 46.37.150 Lamps on vehicles—Parked or stopped vehicles, lighting requirements.
- 46.37.160 Hazard warning lights, lamps, and reflectors on farm tractors, farm equipment, and implements of husbandry—Slow moving vehicle emblem.
- 46.37.170 Lamps and reflectors on other vehicles and equipment—Slow-moving vehicle emblem on animal-drawn vehicles.
- 46.37.196 Red lights on emergency tow trucks.
- 46.37.200 Stop lamps and electric turn signals.
- 46.37.210 Additional lighting equipment.
- 46.37.215 Hazard warning lamps.
- 46.37.220 Multiple-beam road-lighting equipment.
- 46.37.240 Single-beam road-lighting equipment.
- 46.37.250 Repealed.
- 46.37.260 Alternate road lighting equipment.
- 46.37.270 Number of lamps required—Number of additional lamps permitted.
- 46.37.280 Special restrictions on lamps.
- 46.37.290 Special lighting equipment on school buses and private carrier buses.
- 46.37.320 Authority of state commission on equipment with reference to lighting devices (as amended by 1977 1st ex.s. c 20).
- 46.37.320 Authority of state commission on equipment with reference to lighting devices or other safety equipment (as amended by 1977 1st ex.s. c 355).
- 46.37.330 Revocation of certificate of approval on devices—Reapproval, conditions.
- 46.37.340 Braking equipment required (as amended by 1977 1st ex.s. c 148).
- 46.37.340 Braking equipment required (as amended by 1977 1st ex.s. c 355).
- 46.37.360 Maintenance of brakes—Brake system failure indicator.
- 46.37.365 Hydraulic brake fluid—Defined—Standards and specifications.
- 46.37.369 Wheels and front suspension.

- 46.37.370 Repealed.
- 46.37.375 Steering and suspension systems.
- 46.37.380 Horns, warning devices, and theft alarms.
- 46.37.390 Mufflers, prevention of noise—Smoke and air contaminants—Standards—Definitions.
- 46.37.400 Mirrors.
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- 46.37.420 Restrictions as to tire equipment.
- 46.37.424 Regrooved tires—Standards—Exception for off-highway use—Penalty.
- 46.37.425 Authority of state commission on equipment with reference to tires—Rules and regulations—Penalty.
- 46.37.440 Certain vehicles to carry flares or other warning devices.
- 46.37.465 Fuel system.
- 46.37.480 Television viewers—Earphones.
- 46.37.500 Fenders or splash aprons.
- 46.37.510 Seat belts and shoulder harnesses.
- 46.37.513 Bumpers.
- 46.37.517 Body and body hardware.
- 46.37.522 Motorcycles and motor-driven cycles—When head lamps and tail lamps to be lighted.
- 46.37.523 Motorcycles and motor-driven cycles—Head lamps.
- 46.37.524 Motor-driven cycles—Head lamps.
- 46.37.525 Motorcycles and motor-driven cycles—Tail lamps, reflectors, and stop lamps.
- 46.37.527 Motorcycles and motor-driven cycles—Brake requirements.
- 46.37.528 Motorcycles and motor-driven cycles—Performance ability of brakes.
- 46.37.529 Motor-driven cycles—Braking system inspection.
- 46.37.530 Motorcycles or motor-driven cycles—Mirrors, glasses, goggles, face shields, and helmets—Regulations and specifications by state commission on equipment.
- 46.37.535 Motorcycles or motor-driven cycles—Helmet requirements when motorcycle rented.
- 46.37.537 Motorcycles—Exhaust system.
- 46.37.539 Motorcycles and motor-driven cycles—Additional requirements and limitations.

46.37.010 Scope and effect of regulations—General penalty. (1) It is a misdemeanor for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter or in regulations issued by the state commission on equipment, or which is equipped in any manner in violation of this chapter or the commission's regulations, or for any person to do any act forbidden or fail to perform any act required under this chapter or the commission's regulations.

(2) Nothing contained in this chapter or the commission's regulations shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter or the commission's regulations.

(3) The provisions of the chapter and the commission's regulations with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as herein made applicable.

(4) No owner or operator of a farm tractor, self-propelled unit of farm equipment, or implement of husbandry shall be guilty of a crime or subject to penalty

for violation of RCW 46.37.160 as now or hereafter amended unless such violation occurs on a public highway.

(5) It is a misdemeanor for any person to sell or offer for sale vehicle equipment which is required to be approved by the commission on equipment as prescribed in RCW 46.37.005 unless it has been approved by the state commission on equipment.

(6) The provisions of this chapter with respect to equipment required on vehicles shall not apply to motorcycles or motor-driven cycles except as herein made applicable. [1977 1st ex.s. c 355 § 1; 1963 c 154 § 1; 1961 c 12 § 46.37.010. Prior: 1955 c 269 § 1; prior: 1937 c 189 § 14, part; RRS § 6360-14, part; RCW 46.40.010, part; 1929 c 178 § 2; 1927 c 309 § 19; 1921 c 96 § 22, part; 1919 c 59 § 10, part; 1917 c 155 § 15, part; 1915 c 142 § 21, part; RRS § 6362-19.]

Severability—1977 1st ex.s. c 355: "If any provision of this 1977 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." [1977 1st ex.s. c 355 § 57.]

This applies to the enactment of RCW 46.37.196, 46.37.215, 46.37.369, 46.37.375, 46.37.465, 46.37.513, 46.37.517, 46.37.522, 46.37.523, 46.37.524, 46.37.525, 46.37.527, 46.37.528, 46.37.529, 46.37.537, and 46.37.539, the amendment of RCW 46.37.010, 46.37.020, 46.37.030, 46.37.040, 46.37.050, 46.37.060, 46.37.070, 46.37.080, 46.37.090, 46.37.110, 46.37.120, 46.37.140, 46.37.150, 46.37.160, 46.37.170, 46.37.200, 46.37.210, 46.37.220, 46.37.240, 46.37.260, 46.37.270, 46.37.280, 46.37.320, 46.37.330, 46.37.340, 46.37.360, 46.37.365, 46.37.380, 46.37.390, 46.37.400, 46.37.410, 46.37.424, 46.37.425, 46.37.440, 46.37.480, 46.37.500, 46.37.510, 46.37.530, and 46.37.535, and to the repeal of RCW 46.37.250 and 46.37.370.

Effective date—1963 c 154: "This act shall take effect on January 1, 1964." [1963 c 154 § 32.] This applies to RCW 46.04.130, 46.04.165, 46.04.332, 46.04.382, 46.04.552, 46.37.010, 46.37.020, 46.37.050 through 46.37.090, 46.37.120, 46.37.140 through 46.37.180, 46.37.190, 46.37.200, 46.37.210, 46.37.230, 46.37.240, 46.37.280, 46.37.300, 46.37.340, 46.37.351, 46.37.365, 46.37.370, and 46.37.400.

46.37.020 When lighted lamps and signaling devices are required. Every vehicle upon a highway within this state at any time from a half hour after sunset to a half hour before sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of one thousand feet ahead shall display lighted head lights, other lights, and illuminating devices as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles, and such stop lights, turn signals, and other signaling devices shall be lighted as prescribed for the use of such devices. [1977 1st ex.s. c 355 § 2; 1974 ex.s. c 124 § 2; 1963 c 154 § 2; 1961 c 12 § 46.37.020. Prior: 1955 c 269 § 2; prior: 1937 c 189 § 14, part; RRS § 6360-14, part; RCW 46.40.010, part; 1929 c 178 § 2; 1927 c 309 § 19; 1921 c 96 § 22, part; 1919 c 59 § 10, part; 1917 c 155 § 15, part; 1915 c 142 § 21, part; RRS § 6362-19.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

Effective date—1963 c 154: See note following RCW 46.37.010.

46.37.030 Visibility distance and mounted height of lamps. (1) Whenever requirement is hereinafter declared as to distance from which certain lamps and devices

shall render objects visible or within which such lamps or devices shall be visible, said provisions shall apply during the times stated in RCW 46.37.020 in respect to a vehicle without load when upon a straight, level, unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated.

(2) Whenever requirement is hereinafter declared as to the mounted height of lamps or devices it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load.

(3) No additional lamp, reflective device, or other motor vehicle equipment shall be added which impairs the effectiveness of this standard. [1977 1st ex.s. c 355 § 3; 1961 c 12 § 46.37.030. Prior: 1955 c 269 § 3; prior: 1937 c 189 § 14, part; RRS § 6360-14, part; RCW 46.40.010, part.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.040 Head lamps on motor vehicles. (1) Every motor vehicle shall be equipped with at least two head lamps with at least one on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this chapter.

(2) Every head lamp upon every motor vehicle shall be located at a height measured from the center of the head lamp of not more than fifty-four inches nor less than twenty-four inches to be measured as set forth in RCW 46.37.030(2). [1977 1st ex.s. c 355 § 4; 1961 c 12 § 46.37.040. Prior: 1955 c 269 § 4; prior: 1937 c 189 § 15; RRS § 6360-15; RCW 46.40.020; 1933 c 156 § 1, part; 1929 c 178 § 3, part; 1927 c 309 §§ 20, part, 24; 1921 c 96 § 22, part; 1919 c 59 § 10, part; 1917 c 155 § 15, part; 1915 c 142 § 21, part; RRS §§ 6362-20, part, 6362-24.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.050 Tail lamps. (1) After January 1, 1964, every motor vehicle, trailer, semitrailer, and pole trailer, and any other vehicle which is being drawn at the end of a combination of vehicles, shall be equipped with at least two tail lamps mounted on the rear, which, when lighted as required in RCW 46.37.020, shall emit a red light plainly visible from a distance of one thousand feet to the rear, except that passenger cars manufactured or assembled prior to January 1, 1939, shall have at least one tail lamp. On a combination of vehicles only the tail lamps on the rearmost vehicle need actually be seen from the distance specified. On vehicles equipped with more than one tail lamp, the lamps shall be mounted on the same level and as widely spaced laterally as practicable.

(2) Every tail lamp upon every vehicle shall be located at a height of not more than seventy-two inches nor less than fifteen inches.

(3) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty feet to the rear. Any tail lamp or tail lamps, together with any separate lamp or

lamps for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted. [1977 1st ex.s. c 355 § 5; 1963 c 154 § 3; 1961 c 12 § 46.37.050. Prior: 1955 c 269 § 5; prior: 1947 c 267 § 2, part; 1937 c 189 § 16, part; Rem. Supp. 1947 § 6360-16, part; RCW 46.40-.030, part; 1929 c 178 § 7; 1927 c 309 § 27; RRS § 6362-27; 1921 c 96 § 22, part; 1919 c 59 § 10, part; 1917 c 155 § 15, part; 1915 c 142 § 21, part.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

Effective date—1963 c 154: See note following RCW 46.37.010.

46.37.060 Reflectors. (1) Every motor vehicle, trailer, semitrailer, and pole trailer shall carry on the rear, either as a part of the tail lamps or separately, two or more red reflectors meeting the requirements of this section: *Provided, however,* That vehicles of the types mentioned in RCW 46.37.090 shall be equipped with reflectors meeting the requirements of RCW 46.37.110 and 46.37.120.

(2) Every such reflector shall be mounted on the vehicle at a height not less than fifteen inches nor more than seventy-two inches measured as set forth in RCW 46.37.030(2), and shall be of such size and characteristics and so mounted as to be visible at night from all distances within six hundred feet to one hundred feet from such vehicle when directly in front of lawful upper beams of head lamps, except that reflectors on vehicles manufactured or assembled prior to January 1, 1970, shall be visible at night from all distances within three hundred and fifty feet to one hundred feet when directly in front of lawful upper beams of head lamps. [1977 1st ex.s. c 355 § 6; 1963 c 154 § 4; 1961 c 12 § 46.37.060. Prior: 1955 c 269 § 6; prior: 1947 c 267 § 2, part; 1937 c 189 § 16, part; Rem. Supp. 1947 § 6360-16, part; RCW 46.40.030, part.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

Effective date—1963 c 154: See note following RCW 46.37.010.

46.37.070 Stop lamps and turn signals required. (1) After January 1, 1964, every motor vehicle, trailer, semitrailer, and pole trailer shall be equipped with two or more stop lamps meeting the requirements of RCW 46.37.200, except that passenger cars manufactured or assembled prior to January 1, 1964, shall be equipped with at least one such stop lamp. On a combination of vehicles, only the stop lamps on the rearmost vehicle need actually be seen from the distance specified in RCW 46.37.200(1).

(2) After January 1, 1960, every motor vehicle, trailer, semitrailer and pole trailer shall be equipped with electric turn signal lamps meeting the requirements of RCW 46.37.200(2), except that passenger cars, trailers, semitrailers, pole trailers, and trucks less than eighty inches in width, manufactured or assembled prior to January 1, 1953, need not be equipped with electric turn signal lamps. [1977 1st ex.s. c 355 § 7; 1963 c 154 § 5; 1961 c 12 § 46.37.070. Prior: 1959 c 319 § 32; 1955 c 269 § 7; prior: 1953 c 248 § 2, part; 1947 c 267 § 4, part; 1937 c 189 § 23, part; Rem. Supp. 1947 §

6360-23, part; RCW 46.40.090, part; 1929 c 178 § 1, part; 1927 c 309 § 15, part; RRS § 6362-15, part.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

Effective date—1963 c 154: See note following RCW 46.37.010.

46.37.080 Application of succeeding sections. Those sections of this chapter which follow immediately, including RCW 46.37.090, 46.37.100, 46.37.110, 46.37.120, and 46.37.130, relating to clearance lamps, marker lamps, and reflectors, shall apply as stated in said sections to vehicles of the type therein enumerated, namely buses, trucks, truck tractors, and trailers, semitrailers, and pole trailers, respectively, when operated upon any highway, and said vehicles shall be equipped as required and all lamp equipment required shall be lighted at the times mentioned in RCW 46.37.020. For purposes of the sections enumerated above, a camper, when mounted upon a motor vehicle, shall be considered part of the permanent structure of that motor vehicle. [1977 1st ex.s. c 355 § 8; 1963 c 154 § 6; 1961 c 12 § 46.37.080. Prior: 1955 c 269 § 8; prior: 1947 c 267 § 3, part; 1937 c 189 § 17, part; Rem. Supp. 1947 § 6360-17, part; RCW 46.40.040, part.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

Effective date—1963 c 154: See note following RCW 46.37.010.

46.37.090 Additional equipment required on certain vehicles. In addition to other equipment required in RCW 46.37.040, 46.37.050, 46.37.060, and 46.37.070, the following vehicles shall be equipped as herein stated under the conditions stated in RCW 46.37.080, and in addition, the reflectors elsewhere enumerated for such vehicles shall conform to the requirements of RCW 46.37.120(1).

(1) Buses, trucks, motor homes, and motor vehicles with mounted campers eighty inches or more in over-all width:

(a) On the front, two clearance lamps, one at each side, and on vehicles manufactured or assembled after January 1, 1964, three identification lamps meeting the specifications of subdivision (6) [(7)] of this section;

(b) On the rear, two clearance lamps, one at each side, and after January 1, 1964, three identification lamps meeting the specifications of subdivision (6) [(7)] of this section;

(c) On each side, two side marker lamps, one at or near the front and one at or near the rear;

(d) On each side, two reflectors, one at or near the front and one at or near the rear.

(2) Trailers and semitrailers eighty inches or more in over-all width:

(a) On the front, two clearance lamps, one at each side;

(b) On the rear, two clearance lamps, one at each side, and after January 1, 1964, three identification lamps meeting the specifications of subdivision (6) [(7)] of this section;

(c) On each side, two side marker lamps, one at or near the front and one at or near the rear;

(d) On each side, two reflectors, one at or near the front and one at or near the rear: *Provided*, That a mobile home as defined by RCW 46.04.302 need not be equipped with two side marker lamps or two side reflectors as required by subsection (2) (c) and (d) of this section while operated under the terms of a special permit authorized by RCW 46.44.090.

(3) Truck tractors:

On the front, two cab clearance lamps, one at each side, and on vehicles manufactured or assembled after January 1, 1964, three identification lamps meeting the specifications of subdivision (6) [(7)] of this section.

(4) Trailers, semitrailers, and pole trailers thirty feet or more in over-all length:

On each side, one amber side marker lamp and one amber reflector, centrally located with respect to the length of the vehicle: *Provided*, That a mobile home as defined by RCW 46.04.302 need not be equipped with such side marker lamp or reflector while operated under the terms of a special permit authorized by RCW 46.44.090.

(5) Pole trailers:

(a) On each side, one amber side marker lamp at or near the front of the load;

(b) One amber reflector at or near the front of the load;

(c) On the rearmost support for the load, one combination marker lamp showing amber to the front and red to the rear and side, mounted to indicate maximum width of the pole trailer.

(6) Boat trailers eighty inches or more in overall width:

(a) One on each side, at or near the midpoint, one clearance lamp performing the function of both a front and rear clearance lamp;

(b) On the rear, after June 1, 1978, three identification lamps meeting the specifications of subdivision (7) of this section;

(c) One on each side, two side marker lamps, one at or near the front and one at or near the rear;

(d) On each side, two reflectors, one at or near the front and one at or near the rear.

(7) Whenever required or permitted by this chapter, identification lamps shall be grouped in a horizontal row, with lamp centers spaced not less than six nor more than twelve inches apart, and mounted on the permanent structure of the vehicle as close as practicable to the vertical centerline: *Provided, however*, That where the cab of a vehicle is not more than forty-two inches wide at the front roof line, a single identification lamp at the center of the cab shall be deemed to comply with the requirements for front identification lamps. [1977 1st ex.s. c 355 § 9; 1963 c 154 § 7; 1961 c 12 § 46.37.090. Prior: 1955 c 269 § 9; prior: 1947 c 267 § 3, part; 1937 c 189 § 17, part; Rem. Supp. 1947 § 6360-17, part; RCW 46.40.040, part; 1933 c 156 §§ 5, part, 6, part; 1929 c 178 §§ 7, part, 8, part; 1927 c 309 §§ 27, part, 28, part; RRS §§ 6362-27, part, 6362-28, part; 1921 c 96 § 22, part; 1919 c 59 § 10, part; 1917 c 155 § 15, part.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

Effective date—1963 c 154: See note following RCW 46.37.010.

46.37.110 Mounting of reflectors, clearance lamps, identification lamps, and side marker lamps. (1) Reflectors when required by RCW 46.37.090 shall be mounted at a height not less than twenty-four inches and not higher than sixty inches above the ground on which the vehicle stands, except that if the highest part of the permanent structure of the vehicle is less than twenty-four inches the reflector at such point shall be mounted as high as that part of the permanent structure will permit.

The rear reflectors on a pole trailer may be mounted on each side of the bolster or load.

Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp, but such reflector shall meet all the other reflector requirements of this chapter.

(2) Clearance lamps shall be mounted on the permanent structure of the vehicle in such a manner as to indicate the extreme height and width of the vehicle. When rear identification lamps are required and are mounted as high as is practicable, rear clearance lamps may be mounted at optional height, and when the mounting of front clearance lamps results in such lamps failing to indicate the extreme width of the trailer, such lamps may be mounted at optional height but must indicate, as near as practicable, the extreme width of the trailer. Clearance lamps on truck tractors shall be located so as to indicate the extreme width of the truck tractor cab. Clearance lamps and side marker lamps may be mounted in combination provided illumination is given as required herein with reference to both: *Provided*, That no rear clearance lamp may be combined in any shell or housing with any tail lamp or identification lamp. [1977.1st ex.s. c 355 § 10; 1961 c 12 § 46.37.110. Prior: 1955 c 269 § 11; prior: 1947 c 267 § 3, part; 1937 c 189 § 17, part; Rem. Supp. 1947 § 6360-17, part; RCW 46.40.040, part; 1933 c 156 §§ 5, part, 6, part; 1929 c 178 §§ 7, part, 8, part; 1927 c 309 §§ 27, part, 28, part; RRS §§ 6362-27, part, 6362-28, part; 1921 c 96 § 22, part; 1919 c 59 § 10, part; 1917 c 155 § 15, part.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.120 Visibility of reflectors, clearance lamps, identification lamps, and side marker lamps. (1) Every reflector upon any vehicle referred to in RCW 46.37.090 shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within six hundred feet to one hundred feet from the vehicle when directly in front of lawful lower beams of head lamps, except that the visibility for reflectors on vehicles manufactured or assembled prior to January 1, 1970, shall be measured in front of the lawful upper beams of headlamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides, and those mounted on the rear shall reflect a red color to the rear.

(2) Front and rear clearance lamps and identification lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at all distances between five hundred feet

and fifty feet from the front and rear, respectively, of the vehicle.

(3) Side marker lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at all distances between five hundred feet and fifty feet from the side of the vehicle on which mounted. [1977 1st ex.s. c 355 § 11; 1963 c 154 § 8; 1961 c 12 § 46.37.120. Prior: 1955 c 269 § 12; prior: 1947 c 267 § 3, part; 1937 c 189 § 17, part; Rem. Supp. 1947 § 6360-17, part; RCW 46.40.040, part; 1933 c 156 §§ 5, part, 6, part; 1929 c 178 §§ 7, part, 8, part; 1927 c 309 §§ 27, part, 28, part; RRS §§ 6362-27, part, 6362-28, part; 1921 c 96 § 22, part; 1919 c 59 § 10, part; 1917 c 155 § 15, part.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

Effective date—1963 c 154: See note following RCW 46.37.010.

46.37.140 Lamps, reflectors, and flags on projecting load. Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of such vehicle there shall be displayed at the extreme rear end of the load, at the times specified in RCW 46.37.020, two red lamps, visible from a distance of at least five hundred feet to the rear, two red reflectors visible at night from all distances within six hundred feet to one hundred feet to the rear when directly in front of lawful lower beams of headlamps, and located so as to indicate maximum width, and on each side one red lamp, visible from a distance of at least five hundred feet to the side, located so as to indicate maximum overhang. There shall be displayed at all other times on any vehicle having a load which extends beyond its sides or more than four feet beyond its rear, red flags, not less than twelve inches square, marking the extremities of such loads, at each point where a lamp would otherwise be required by this section, under RCW 46.37.020. [1977 1st ex.s. c 355 § 12; 1963 c 154 § 9; 1961 c 12 § 46.37.140. Prior: 1955 c 269 § 14; prior: 1937 c 189 § 18; RRS § 6360-18; RCW 46.40.050; 1929 c 178 § 11, part; 1927 c 309 § 32, part; RRS § 6362-32, part; 1921 c 96 § 22, part; 1919 c 59 § 10, part; 1917 c 155 § 15, part.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

Effective date—1963 c 154: See note following RCW 46.37.010.

46.37.150 Lamps on vehicles—Parked or stopped vehicles, lighting requirements. (1) Every vehicle shall be equipped with one or more lamps, which, when lighted, shall display a white or amber light visible from a distance of one thousand feet to the front of the vehicle, and a red light visible from a distance of one thousand feet to the rear of the vehicle. The location of said lamp or lamps shall always be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic.

(2) Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half hour after sunset and a half hour before sunrise and in the event there is sufficient light to reveal any person or object within a distance of one thousand feet upon such

street or highway, no lights need be displayed upon such parked vehicle.

(3) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, outside an incorporated city or town, whether attended or unattended, during the hours between a half hour after sunset and a half hour before sunrise and there is insufficient light to reveal any person or object within a distance of one thousand feet upon such highway, such vehicle so parked or stopped shall be equipped with and shall display lamps meeting the requirements of subsection (1) of this section.

(4) Any lighted head lamps upon a parked vehicle shall be depressed or dimmed. [1977 1st ex.s. c 355 § 13; 1963 c 154 § 10; 1961 c 12 § 46.37.150. Prior: 1955 c 269 § 15; prior: 1937 c 189 § 19; RRS § 6360-19; RCW 46.40.060; 1933 c 156 § 8; 1929 c 178 § 10; 1927 c 309 § 31; RRS § 6362-31.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

Effective date—1963 c 154: See note following RCW 46.37.010.

46.37.160 Hazard warning lights, lamps, and reflectors on farm tractors, farm equipment, and implements of husbandry—Slow moving vehicle emblem. (1) Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry manufactured or assembled after January 1, 1970, shall be equipped with vehicular hazard warning lights of the type described in RCW 46.37.215 visible from a distance of not less than one thousand feet to the front and rear in normal sunlight, which shall be displayed whenever any such vehicle is operated upon a highway.

(2) Every self-propelled unit of farm equipment or implement of husbandry manufactured or assembled after January 1, 1970, shall at all times, and every other motor vehicle shall at times mentioned in RCW 46.37-.020, be equipped with lamps and reflectors as follows:

(a) At least two headlamps meeting the requirements of RCW 46.37.220, 46.37.240, or 46.37.260;

(b) At least one red lamp visible when lighted from a distance of not less than one thousand feet to the rear mounted as far to the left of center of vehicle as practicable;

(c) At least two red reflectors visible from all distances within six hundred to one hundred feet to the rear when directly in front of lawful lower beams of headlamps.

(3) Every combination of farm tractor and towed farm equipment or towed implement of husbandry shall at all times mentioned in RCW 46.37.020 be equipped with lamps and reflectors as follows:

(a) The farm tractor element of every such combination shall be equipped as required in subsections (1) and (2) of this section;

(b) The towed unit of farm equipment or implement of husbandry element of such combination shall be equipped on the rear with two red lamps visible when lighted from a distance of not less than one thousand feet to the rear, and two red reflectors visible to the rear from all distances within six hundred feet to one hundred feet to the rear when directly in front of lawful

upper beams of head lamps. One reflector shall be so positioned to indicate, as nearly as practicable, the extreme left projection of the towed unit;

(c) If the towed unit or its load obscures either of the vehicle hazard warning lights on the tractor, the towed unit shall be equipped with vehicle hazard warning lights described in subsection (1) of this section.

(4) The two red lamps and the two red reflectors required in the foregoing subsections of this section on a self-propelled unit of farm equipment or implement of husbandry or combination of farm tractor and towed farm equipment shall be so positioned as to show from the rear as nearly as practicable the extreme width of the vehicle or combination carrying them: *Provided*, That if all other requirements are met, reflective tape or paint may be used in lieu of reflectors required by subsection (3) of this section.

(5) After January 1, 1970, every farm tractor and every self-propelled unit of farm equipment or implement of husbandry designed for operation at speeds not in excess of twenty-five miles per hour shall at all times be equipped with a slow moving vehicle emblem mounted on the rear except as provided in subsection (6) of this section.

(6) After January 1, 1970, every combination of farm tractor and towed farm equipment or towed implement of husbandry normally operating at speeds not in excess of twenty-five miles per hour shall at all times be equipped with a slow moving vehicle emblem as follows:

(a) Where the towed unit is sufficiently large to obscure the slow moving vehicle emblem on the farm tractor, the towed unit shall be equipped with a slow moving vehicle emblem. In such cases, the towing vehicle need not display the emblem;

(b) Where the slow moving vehicle emblem on the farm tractor unit is not obscured by the towed unit, then either or both may be equipped with the required emblem but it shall be sufficient if either has it.

(7) The emblem required by subsections (5) and (6) of this section shall comply with current standards and specifications as promulgated by the state commission on equipment. [1977 1st ex.s. c 355 § 14; 1969 ex.s. c 281 § 22; 1963 c 154 § 11; 1961 c 12 § 46.37.160. Prior: 1955 c 269 § 16.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

Effective date—1963 c 154: See note following RCW 46.37.010.

46.37.170 Lamps and reflectors on other vehicles and equipment—Slow-moving vehicle emblem on animal-drawn vehicles. (1) Every vehicle, including animal-drawn vehicles and vehicles referred to in RCW 46.37.010(3), not specifically required by the provisions of RCW 46.37.020 through 46.37.330 to be equipped with lamps, or other lighting devices, shall at all times specified in RCW 46.37.020 be equipped with at least one lamp displaying a white light visible from a distance of not less than one thousand feet to the front of said vehicle, and shall also be equipped with two lamps displaying red light visible from a distance of not less than one thousand feet to the rear of said vehicle, or as an alternative, one lamp displaying a red light visible from

a distance of not less than one thousand feet to the rear and two red reflectors visible from all distances of six hundred to one hundred feet to the rear when illuminated by the lawful lower beams of head lamps.

(2) After June 1, 1978, every animal-drawn vehicle shall at all times be equipped with a slow-moving vehicle emblem complying with RCW 46.37.160(7). [1977 1st ex.s. c 355 § 15; 1963 c 154 § 12; 1961 c 12 § 46.37.170. Prior: 1955 c 269 § 17; prior: 1937 c 189 § 21; RRS § 6360-21; RCW 46.40.080; 1927 c 309 § 34; 1921 c 96 § 22, part; 1917 c 40 § 1; RRS § 6362-34.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

Effective date—1963 c 154: See note following RCW 46.37.010.

46.37.196 Red lights on emergency tow trucks. All emergency tow trucks shall be identified by an intermittent or revolving red light capable of 360° visibility at a distance of five hundred feet under normal atmospheric conditions. This intermittent or revolving red light shall be used only at the scene of an emergency or accident, and it will be unlawful to use such light while traveling to or from an emergency or accident, or for any other purposes. [1977 1st ex.s. c 355 § 16.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.200 Stop lamps and electric turn signals. (1) Any vehicle may be equipped and when required under this chapter shall be equipped with a stop lamp or lamps on the rear of the vehicle which shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than one hundred feet and on any vehicle manufactured or assembled after January 1, 1964, three hundred feet to the rear in normal sunlight, and which shall be actuated upon application of a service brake, and which may but need not be incorporated with one or more other rear lamps.

(2) Any vehicle may be equipped and when required under RCW 46.37.070(2) shall be equipped with electric turn signals which shall indicate an intention to turn by flashing lights showing to the front and rear of a vehicle or on a combination of vehicles on the side of the vehicle or combination toward which the turn is to be made. The lamps showing to the front shall be mounted on the same level and as widely spaced laterally as practicable and, when signaling, shall emit amber light: *Provided*, That on any vehicle manufactured prior to January 1, 1969, the lamps showing to the front may emit white or amber light, or any shade of light between white and amber. The lamp showing to the rear shall be mounted on the same level and as widely spaced laterally as practicable, and, when signaling, shall emit a red or amber light, or any shade of color between red and amber. Turn signal lamps shall be visible from a distance of not less than five hundred feet to the front and rear in normal sunlight. Turn signal lamps may, but need not be, incorporated in other lamps on the vehicle. [1977 1st ex.s. c 355 § 17; 1963 c 154 § 15; 1961 c 12 § 46.37.200. Prior: 1955 c 269 § 20; prior: 1953 c 248 § 2, part; 1947

c 267 § 4, part; 1937 c 189 § 23, part; Rem. Supp. 1947 § 6360-23, part; RCW 46.40.090, part; 1929 c 178 § 1, part; 1927 c 309 § 15, part; RRS § 6362-15.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

Effective date—1963 c 154: See note following RCW 46.37.010.

46.37.210 Additional lighting equipment. (1) Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare.

(2) Any motor vehicle may be equipped with not more than one running-board courtesy lamp on each side thereof which shall emit a white or amber light without glare.

(3) Any motor vehicle may be equipped with one or more back-up lamps either separately or in combination with other lamps, but any such back-up lamp or lamps shall not be lighted when the motor vehicle is in forward motion.

(4) Any vehicle may be equipped with one or more side marker lamps, and any such lamp may be flashed in conjunction with turn or vehicular hazard warning signals. Side marker lamps located toward the front of a vehicle shall be amber, and side marker lamps located toward the rear shall be red.

(5) Any vehicle eighty inches or more in over-all width, if not otherwise required by RCW 46.37.090, may be equipped with not more than three identification lamps showing to the front which shall emit an amber light without glare and not more than three identification lamps showing to the rear which shall emit a red light without glare. Such lamps shall be mounted as specified in RCW 46.37.090(6) [(7)].

(6) (a) Every motor vehicle, trailer, semitrailer, truck tractor, and pole trailer used in the state of Washington may be equipped with an auxiliary lighting system consisting of:

(i) One green light to be activated when the accelerator of the motor vehicle is depressed;

(ii) Not more than two amber lights to be activated when the motor vehicle is moving forward, or standing and idling, but is not under the power of the engine.

(b) Such auxiliary system shall not interfere with the operation of vehicle stop lamps or turn signals, as required by RCW 46.37.070. Such system, however, may operate in conjunction with such stop lamps or turn signals.

(c) Only one color of the system may be illuminated at any one time, and at all times either the green light, or amber light or lights shall be illuminated when the stop lamps of the vehicle are not illuminated.

(d) The green light, and the amber light or lights, when illuminated shall be plainly visible at a distance of one thousand feet to the rear.

(e) Only one such system may be mounted on a motor vehicle, trailer, semitrailer, truck tractor, or pole trailer; and such system shall be rear mounted in a horizontal fashion, at a height of not more than seventy-two inches, nor less than twenty inches, as provided by RCW 46.37.050.

(f) On a combination of vehicles, only the lights of the rearmost vehicle need actually be seen and distinguished as provided in subparagraph (d) of this subsection.

(g) Each manufacturer's model of such a system as described in this subsection shall be approved by the commission on equipment as provided for in RCW 46.37.005 and 46.37.320, before it may be sold or offered for sale in the state of Washington. [1977 1st ex.s. c 355 § 18; 1975 1st ex.s. c 242 § 1; 1963 c 154 § 16; 1961 c 12 § 46.37.210. Prior: 1955 c 269 § 21; prior: 1937 c 189 § 24; RRS § 6360-24; RCW 46.40.100.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

Effective date—1963 c 154: See note following RCW 46.37.010.

46.37.215 Hazard warning lamps. (1) Any vehicle may be equipped with lamps for the purpose of warning other operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking, or passing.

(2) After June 1, 1978, every motor home, bus, truck, truck tractor, trailer, semitrailer, or pole trailer eighty inches or more in overall width or thirty feet or more in overall length shall be equipped with lamps meeting the requirements of this section.

(3) Vehicular hazard warning signal lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable, and shall display simultaneously flashing amber light: *Provided*, That on any vehicle manufactured prior to January 1, 1969, the lamps showing to the front may display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. These warning lights shall be visible from a distance of not less than five hundred feet in normal sunlight. [1977 1st ex.s. c 355 § 19.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.220 Multiple-beam road-lighting equipment. Except as hereinafter provided, the head lamps or the auxiliary driving lamp or the auxiliary passing lamp or combination thereof on motor vehicles shall be so arranged that the driver may select at will between distributions of light projected to different elevations, and such lamps may be so arranged that such selection can be made automatically subject to the following limitations:

(1) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of four hundred fifty feet ahead for all conditions of loading;

(2) There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of one hundred fifty feet ahead; and on a straight level road under any conditions of loading none of the high intensity portion

of the beam shall be directed to strike the eyes of an approaching driver;

(3) Every new motor vehicle registered in this state after January 1, 1948, which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use, and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped. [1977 1st ex.s. c 355 § 20; 1961 c 12 § 46.37-.220. Prior: 1955 c 269 § 22; prior: 1947 c 267 § 5, part; Rem. Supp. 1947 § 6360-25a, part; RCW 46.40.140, part; 1933 c 156 § 3, part; 1929 c 178 § 5, part; 1927 c 309 § 22, part; RRS § 6362-22, part.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.240 Single-beam road-lighting equipment. Head lamp systems which provide only a single distribution of light shall be permitted on all farm tractors regardless of date of manufacture, and on all other motor vehicles manufactured and sold prior to one year after March 18, 1955, in lieu of multiple-beam road-lighting equipment herein specified if the single distribution of light complies with the following requirements and limitations:

(1) The head lamps shall be so aimed that when the vehicle is not loaded none of the high intensity portion of the light shall at a distance of twenty-five feet ahead project higher than a level of five inches below the level of the center of the lamp from which it comes, and in no case higher than forty-two inches above the level on which the vehicle stands at a distance of seventy-five feet ahead;

(2) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least two hundred feet. [1977 1st ex.s. c 355 § 21; 1963 c 154 § 18; 1961 c 12 § 46.37.240. Prior: 1955 c 269 § 24; prior: 1947 c 267 § 5, part; Rem. Supp. 1947 § 6360-25a, part; RCW 46.40-.140, part; 1933 c 156 § 3, part; 1929 c 178 § 5, part; 1927 c 309 § 22, part; RRS § 6362-22, part.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

Effective date—1963 c 154: See note following RCW 46.37.010.

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

46.37.260 Alternate road lighting equipment. Any motor vehicle may be operated under the conditions specified in RCW 46.37.020 when equipped with two lighted lamps upon the front thereof capable of revealing persons and objects one hundred feet ahead in lieu of lamps required in RCW 46.37.220 or 46.37.240: *Provided, however*, That at no time shall it be operated at a speed in excess of twenty miles per hour. [1977 1st ex.s. c 355 § 22; 1961 c 12 § 46.37.260. Prior: 1955 c 269 § 26; prior: 1937 c 189 § 27; RRS § 6360-27; RCW 46.40.150.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.270 Number of lamps required—Number of additional lamps permitted. (1) At all times specified in RCW 46.37.020, at least two lighted lamps shall be displayed, one on each side at the front of every motor vehicle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles.

(2) Whenever a motor vehicle equipped with head lamps as herein required is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of intensity greater than three hundred candlepower, not more than a total of two of any such additional lamps on the front of a vehicle shall be lighted at any one time when upon a highway. [1977 1st ex.s. c 355 § 23; 1961 c 12 § 46.37.270. Prior: 1955 c 269 § 27; prior: 1937 c 189 § 28; RRS § 6360–28; RCW 46.40.160; 1929 c 178 § 2; 1927 c 309 § 19; 1921 c 96 § 22, part; 1919 c 59 § 10, part; 1917 c 155 § 15, part; 1915 c 142 § 21, part; RRS § 6362–19.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.280 Special restrictions on lamps. (1) During the times specified in RCW 46.37.020, any lighted lamp or illuminating device upon a motor vehicle, other than head lamps, spot lamps, auxiliary lamps, flashing turn signals, emergency vehicle warning lamps, warning lamps authorized by the state commission on equipment and school bus warning lamps, which projects a beam of light of an intensity greater than three hundred candlepower shall be so directed that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

(2) Except as required in RCW 46.37.190 no person shall drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying a red light visible from directly in front of the center thereof.

(3) Flashing lights are prohibited except as required in RCW 46.37.190, 46.37.200, 46.37.210, 46.37.215, and 46.37.300, and warning lamps authorized by the state commission on equipment. [1977 1st ex.s. c 355 § 24; 1963 c 154 § 19; 1961 c 12 § 46.37.280. Prior: 1955 c 269 § 28; prior: 1949 c 157 § 2; 1947 c 267 § 6; 1947 c 200 § 2; 1937 c 189 § 29; Rem. Supp. 1949 § 6360–29; RCW 46.40.170; 1927 c 309 § 33; RRS § 6362–33.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

Effective date—1963 c 154: See note following RCW 46.37.010.

46.37.290 Special lighting equipment on school buses and private carrier buses. The state commission on equipment is authorized to adopt standards and specifications applicable to lighting equipment on and special warning devices to be carried by school buses and private carrier buses consistent with the provisions of this chapter, but supplemental thereto. Such standards and specifications shall correlate with and, so far as possible, conform to the specifications then current as approved by the society of automotive engineers. [1977 c 45 § 1; 1970 ex.s. c 100 § 6; 1961 c 12 § 46.37.290. Prior: 1955 c 269 § 29; prior: 1937 c 189 § 25, part; RRS §

6360–25, part; RCW 46.40.130, part; 1929 c 178 § 3, part; 1927 c 309 § 20, part; RRS § 6362–20, part.]

46.37.320 Authority of state commission on equipment with reference to lighting devices (as amended by 1977 1st ex.s. c 20). (1) The state commission on equipment is hereby authorized to approve or disapprove lighting devices and to issue and enforce regulations establishing standards and specifications for the approval of such lighting devices, and their installation, adjustment, and aiming, when in use on motor vehicles. Such regulations shall correlate with and, so far as practicable, conform to the then current standards and specifications of the society of automotive engineers applicable to such equipment and to the headlamp standards established by the United Nations agreement concerning the adoption of approval and reciprocal recognition of approval for motor vehicle equipment and parts done at Geneva on March 20, 1958, as amended and adopted by the Canadian standards association (CSA standard D106.2): *Provided*, That the sale, installation, and use of any headlamp meeting the standards of either the society of automotive engineers or the United Nations agreement, as amended, shall be lawful in this state.

(2) The state commission on equipment is hereby required to approve or disapprove any lighting device, of a type on which approval is specifically required in this chapter, within a reasonable time after such device has been submitted.

(3) The state commission on equipment is further authorized to set up the procedure which shall be followed when any device is submitted for approval.

(4) The state commission on equipment upon approving any such lamp or device shall issue to the applicant a certificate of approval together with any instructions determined by it.

(5) The state commission on equipment shall publish lists of all lamps and devices by name and type which have been approved by it. [1977 1st ex.s. c 20 § 1; 1961 c 12 § 46.37.320. Prior: 1955 c 269 § 32; prior: 1937 c 189 § 31; RRS § 6360–31; RCW 46.40.190; 1933 c 156 § 4, part; 1929 c 178 § 6, part; 1927 c 309 § 23, part; RRS § 6362–23, part.]

46.37.320 Authority of state commission on equipment with reference to lighting devices or other safety equipment (as amended by 1977 1st ex.s. c 355). (1) The state commission on equipment is hereby authorized to approve or disapprove any lighting device or other safety equipment, component, or assembly of a type for which approval is required in this chapter or in regulations issued by the state commission on equipment within a reasonable time after such approval has been requested.

(2) The state commission on equipment shall establish the procedure to be followed when request for approval of any lighting device or other safety equipment, component, or assembly is submitted under this chapter or in regulations issued by the state commission on equipment. The procedure may provide for submission of such device, component, or assembly to any recognized organization or agency such as, but not limited to, the vehicle equipment safety commission, American national standards institute, society of automotive engineers, and the American association of motor vehicle administrators, as the agent of the state commission on equipment and for the issuance of an approval certificate by that recognized organization or agency in lieu of submission of the device, component, or assembly to the state commission on equipment.

(3) The state commission on equipment shall maintain and publish lists of all lamps, lighting devices, components, assemblies, or other safety equipment by name and type which have been approved by it. [1977 1st ex.s. c 355 § 25; 1961 c 12 § 46.37.320. Prior: 1955 c 269 § 32; prior: 1937 c 189 § 31; RRS § 6360–31; RCW 46.40.190; 1933 c 156 § 4, part; 1929 c 178 § 6, part; 1927 c 309 § 23, part; RRS § 6362–23, part.]

Reviser's note: RCW 46.37.320 was amended twice during the 1977 1st extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.330 Revocation of certificate of approval on devices—Reapproval, conditions. (1) When the state

commission on equipment has reason to believe that an approved device does not comply with the requirements of this chapter or regulations issued by the state commission on equipment, it may, after giving thirty days' previous notice to the person holding the certificate of approval for such device in this state, conduct a hearing upon the question of compliance of said approved device. After said hearing the state commission on equipment shall determine whether said approved device meets the requirements of this chapter and regulations issued by the commission. If said device does not meet the requirements of this chapter or the commission's regulations it shall give notice to the one to whom the certificate of approval has been issued of the commission's intention to suspend or revoke the certificate of approval for such device in this state.

(2) If at the expiration of ninety days after such notice the person holding the certificate of approval for such device has failed to satisfy the state commission on equipment that said approved device as thereafter to be sold or offered for sale meets the requirements of this chapter or the commission's regulations, the state commission on equipment shall suspend or revoke the approval issued therefor and shall require the withdrawal of all such devices from the market and may require that all said devices sold since the notification be replaced with devices that do comply.

(3) When a certificate of approval has been suspended or revoked pursuant to this chapter or regulations by the state commission on equipment, the device shall not be again approved unless and until it has been submitted for reapproval and it has been demonstrated, in the same manner as in an application for an original approval, that the device fully meets the requirements of this chapter or regulations issued by the state commission on equipment. The state commission on equipment may require that all previously approved items are being effectively recalled and removed from the market as a condition of reapproval. [1977 1st ex.s. c 355 § 26; 1961 c 12 § 46.37.330. Prior: 1955 c 269 § 33; prior: 1937 c 189 § 32; RRS § 6360-32; RCW 46.40.200; 1933 c 156 § 4, part; 1929 c 178 § 6, part; 1927 c 309 § 23, part; RRS § 6362-23, part.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.340 Braking equipment required (as amended by 1977 1st ex.s. c 148). Every motor vehicle, trailer, semitrailer and pole trailer, and any combination of such vehicle operating upon a highway within this state shall be equipped with brakes in compliance with the requirements of this chapter.

(1) **Service brakes**—adequacy. Every such vehicle and combination of vehicles, except special mobile equipment as defined in RCW 46.04.552, shall be equipped with service brakes complying with the performance requirements of RCW 46.37.351 and adequate to control the movement of and to stop and hold such vehicle under all conditions of loading, and on any grade incident to its operation.

(2) **Parking brakes**—adequacy. Every such vehicle and combination of vehicles, except motorcycles and motor-driven cycles, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice, or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service

brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind. The same brake drums, brake shoes and lining assemblies, brake shoe anchors and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one part shall not leave the vehicle without operative brakes.

(3) **Brakes on all wheels.** Every vehicle shall be equipped with brakes acting on all wheels except:

(a) Trailers, semitrailers, or pole trailers of a gross weight not exceeding three thousand pounds, provided that:

(i) The total weight on and including the wheels of the trailer or trailers shall not exceed forty percent of the gross weight of the towing vehicle when connected to the trailer or trailers, and

(ii) The combination of vehicles consisting of the towing vehicle and its total towed load, is capable of complying with the performance requirements of RCW 46.37.351.

(b) Trailers, semitrailers, or pole trailers manufactured and assembled prior to July 1, 1965 shall not be required to be equipped with brakes when the total weight on and including the wheels of the trailer or trailers does not exceed two thousand pounds.

(c) Any vehicle being towed in driveway or towaway operations, provided the combination of vehicles is capable of complying with the performance requirements of RCW 46.37.351.

(d) Trucks and truck-tractors having three or more axles need not have brakes on the front wheels, except that when such vehicles are equipped with at least two steerable axles, the wheels of one steerable axle need not have brakes. However, such trucks and truck-tractors must be capable of complying with the performance requirements of RCW 46.37.351.

(e) Special mobile equipment as defined in RCW 46.04.552.

(f) The wheel of a sidecar attached to a motorcycle or to a motor-driven cycle, or the front wheel of a motor-driven cycle need not be equipped with brakes, provided that such motorcycle or motor-driven cycle is capable of complying with the performance requirements of RCW 46.37.351.

(g) For a forklift manufactured after January 1, 1970, and being towed, wheels need not have brakes except for those on the rear-most axle so long as such brakes, together with the brakes on the towing vehicle, shall be adequate to stop the combination within the stopping distance requirements of RCW 46.37.351.

(4) **Automatic trailer brake application upon breakaway.** Every trailer, semitrailer, and pole trailer equipped with air or vacuum actuated brakes and every trailer, semitrailer, and pole trailer with a gross weight in excess of three thousand pounds, manufactured or assembled after January 1, 1964, shall be equipped with brakes acting on all wheels and of such character as to be applied automatically and promptly, and remain applied for at least fifteen minutes, upon breakaway from the towing vehicle.

(5) **Tractor brakes protected.** Every motor vehicle manufactured or assembled after January 1, 1964, and used to tow a trailer, semitrailer or pole trailer equipped with brakes, shall be equipped with means for providing that in case of breakaway of the towed vehicle, the towing vehicle will be capable of being stopped by the use of its service brakes.

(6) **Trailer air reservoirs safeguarded.** Air brake systems installed on trailers manufactured or assembled after January 1, 1964, shall be so designed that the supply reservoir used to provide air for the brakes shall be safeguarded against backflow of air from the reservoir through the supply line.

(7) **Two means of emergency brake operation.**

(a) **Air brakes.** After January 1, 1964, every towing vehicle, when used to tow another vehicle equipped with air controlled brakes, in other than driveway or towaway operations, shall be equipped with two means for emergency application of the trailer brakes. One of these means shall apply the brakes automatically in the event of a reduction of the towing vehicle air supply to a fixed pressure which shall be not lower than twenty pounds per square inch nor higher than forty-five pounds per square inch. The other means shall be a manually controlled device for applying and releasing the brakes, readily operable by a person seated in the driving seat, and its emergency position or method of operation shall be clearly indicated. In no instance may the manual means be so arranged as to permit its use to

prevent operation of the automatic means. The automatic and the manual means required by this section may be, but are not required to be, separate.

(b) Vacuum brakes. After January 1, 1964, every towing vehicle used to tow other vehicles equipped with vacuum brakes, in operations other than driveaway or towaway operations, shall have, in addition to the single control device required by subsection (8) of this section, a second control device which can be used to operate the brakes on towed vehicles in emergencies. The second control shall be independent of brake air, hydraulic and other pressure, and independent of other controls, unless the braking system be so arranged that failure of the pressure upon which the second control depends will cause the towed vehicle brakes to be applied automatically. The second control is not required to provide modulated braking.

(8) Single control to operate all brakes. After January 1, 1964, every motor vehicle, trailer, semitrailer and pole trailer, and every combination of such vehicles, except motorcycles and motor-driven cycles, equipped with brakes shall have the braking system so arranged that one control device can be used to operate all service brakes. This requirement does not prohibit vehicles from being equipped with an additional control device to be used to operate brakes on the towed vehicles. This regulation does not apply to driveaway or towaway operations unless the brakes on the individual vehicles are designed to be operated by a single control in the towing vehicle.

(9) Reservoir capacity and check valve.

(a) Air brakes. Every bus, truck or truck-tractor with air operated brakes shall be equipped with at least one reservoir sufficient to insure that, when fully charged to the maximum pressure as regulated by the air compressor governor cut-out setting, a full service brake application may be made without lowering such reservoir pressure by more than twenty percent. Each reservoir shall be provided with means for readily draining accumulated oil or water.

(b) Vacuum brakes. After January 1, 1964, every truck with three or more axles equipped with vacuum assistor type brakes and every truck-tractor and truck used for towing a vehicle equipped with vacuum brakes shall be equipped with a reserve capacity or a vacuum reservoir sufficient to insure that, with the reserve capacity or reservoir fully charged and with the engine stopped, a full service brake application may be made without depleting the vacuum supply by more than forty percent.

(c) Reservoir safeguarded. All motor vehicles, trailers, semitrailers and pole trailers, when equipped with air or vacuum reservoirs or reserve capacity as required by this section, shall have such reservoirs or reserve capacity so safeguarded by a check valve or equivalent device that in the event of failure or leakage in its connection to the source of compressed air or vacuum, the stored air or vacuum shall not be depleted by the leak or failure.

(10) Warning devices.

(a) Air brakes. Every bus, truck or truck-tractor using compressed air for the operation of its own brakes or the brakes on any towed vehicle, shall be provided with a warning signal, other than a pressure gauge, readily audible or visible to the driver, which will operate at any time the air reservoir pressure of the vehicle is below fifty percent of the air compressor governor cut-out pressure. In addition, each such vehicle shall be equipped with a pressure gauge visible to the driver, which indicates in pounds per square inch the pressure available for braking.

(b) Vacuum brakes. After January 1, 1964, every truck-tractor and truck used for towing a vehicle equipped with vacuum operated brakes and every truck with three or more axles using vacuum in the operation of its brakes, except those in driveaway or towaway operations, shall be equipped with a warning signal, other than a gauge indicating vacuum, readily audible or visible to the driver, which will operate at any time the vacuum in the vehicle's supply reservoir or reserve capacity is less than eight inches of mercury.

(c) Combination of warning devices. When a vehicle required to be equipped with a warning device is equipped with both air and vacuum power for the operation of its own brakes or the brakes on a towed vehicle, the warning devices may be, but are not required to be, combined into a single device which will serve both purposes. A gauge or gauges indicating pressure or vacuum shall not be deemed to be an adequate means of satisfying this requirement. [1977 1st ex.s. c 148 § 2; 1965 ex.s. c 170 § 49; 1963 c 154 § 21; 1961 c 12 § 46.37.340. Prior: 1955 c 269 § 34; prior: 1937 c 189 § 34, part; RRS § 6360-34, part; RCW 46.36.020, 46.36.030, part; 1929 c 180 § 6; 1927 c 309 § 16; 1923 c 181 § 5; 1921 c 96 § 23; 1915 c 142 § 22; RRS § 6362-16.]

46.37.340 Braking equipment required (as amended by 1977 1st ex.s. c 355). Every motor vehicle, trailer, semitrailer, and pole trailer, and any combination of such vehicle operating upon a highway within this state shall be equipped with brakes in compliance with the requirements of this chapter.

(1) Service brakes—adequacy. Every such vehicle and combination of vehicles, except special mobile equipment as defined in RCW 46.04.552, shall be equipped with service brakes complying with the performance requirements of RCW 46.37.351 and adequate to control the movement of and to stop and hold such vehicle under all conditions of loading, and on any grade incident to its operation.

(2) Parking brakes—adequacy. Every such vehicle and combination of vehicles shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice, or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind. The same brake drums, brake shoes and lining assemblies, brake shoe anchors, and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one part shall not leave the vehicle without operative brakes.

(3) Brakes on all wheels. Every vehicle shall be equipped with brakes acting on all wheels except:

(a) Trailers, semitrailers, or pole trailers of a gross weight not exceeding three thousand pounds, provided that:

(i) The total weight on and including the wheels of the trailer or trailers shall not exceed forty percent of the gross weight of the towing vehicle when connected to the trailer or trailers; and

(ii) The combination of vehicles consisting of the towing vehicle and its total towed load, is capable of complying with the performance requirements of RCW 46.37.351;

(b) Trailers, semitrailers, or pole trailers manufactured and assembled prior to July 1, 1965, shall not be required to be equipped with brakes when the total weight on and including the wheels of the trailer or trailers does not exceed two thousand pounds;

(c) Any vehicle being towed in driveaway or towaway operations, provided the combination of vehicles is capable of complying with the performance requirements of RCW 46.37.351;

(d) Trucks and truck tractors having three or more axles need not have brakes on the front wheels, except that when such vehicles are equipped with at least two steerable axles, the wheels of one steerable axle need not have brakes. However, such trucks and truck tractors must be capable of complying with the performance requirements of RCW 46.37.351;

(e) Special mobile equipment as defined in RCW 46.04.552 and all vehicles designed primarily for off-highway use with braking systems which work within the power train rather than directly at each wheel;

(f) Vehicles manufactured prior to January 1, 1930, may have brakes operating on only two wheels.

(4) Automatic trailer brake application upon breakaway. Every trailer, semitrailer, and pole trailer equipped with air or vacuum actuated brakes and every trailer, semitrailer, and pole trailer with a gross weight in excess of three thousand pounds, manufactured or assembled after January 1, 1964, shall be equipped with brakes acting on all wheels and of such character as to be applied automatically and promptly, and remain applied for at least fifteen minutes, upon breakaway from the towing vehicle.

(5) Tractor brakes protected. Every motor vehicle manufactured or assembled after January 1, 1964, and used to tow a trailer, semitrailer, or pole trailer equipped with brakes, shall be equipped with means for providing that in case of breakaway of the towed vehicle, the towing vehicle will be capable of being stopped by the use of its service brakes.

(6) Trailer air reservoirs safeguarded. Air brake systems installed on trailers manufactured or assembled after January 1, 1964, shall be so designed that the supply reservoir used to provide air for the brakes shall be safeguarded against backflow of air from the reservoir through the supply line.

(7) Two means of emergency brake operation.

(a) Air brakes. After January 1, 1964, every towing vehicle, when used to tow another vehicle equipped with air controlled brakes, in other than driveaway or towaway operations, shall be equipped with two means for emergency application of the trailer brakes. One of these means shall apply the brakes automatically in the event of a reduction of the towing vehicle air supply to a fixed pressure which shall be not lower than twenty pounds per square inch nor higher than forty-five pounds per square inch. The other means shall be a manually controlled device for applying and releasing the brakes, readily operable by a person seated in the driving seat, and its emergency position or method of operation shall be clearly indicated. In no instance may the manual means be so arranged as to permit its use to prevent operation of the automatic means. The automatic and the manual means required by this section may be, but are not required to be, separate.

(b) Vacuum brakes. After January 1, 1964, every towing vehicle used to tow other vehicles equipped with vacuum brakes, in operations other than driveaway or towaway operations, shall have, in addition to the single control device required by subsection (8) of this section, a second control device which can be used to operate the brakes on towed vehicles in emergencies. The second control shall be independent of brake air, hydraulic, and other pressure, and independent of other controls, unless the braking system be so arranged that failure of the pressure upon which the second control depends will cause the towed vehicle brakes to be applied automatically. The second control is not required to provide modulated braking.

(8) Single control to operate all brakes. After January 1, 1964, every motor vehicle, trailer, semitrailer, and pole trailer, and every combination of such vehicles, equipped with brakes shall have the braking system so arranged that one control device can be used to operate all service brakes. This requirement does not prohibit vehicles from being equipped with an additional control device to be used to operate brakes on the towed vehicles. This regulation does not apply to driveaway or towaway operations unless the brakes on the individual vehicles are designed to be operated by a single control in the towing vehicle.

(9) Reservoir capacity and check valve.

(a) Air brakes. Every bus, truck, or truck tractor with air operated brakes shall be equipped with at least one reservoir sufficient to insure that, when fully charged to the maximum pressure as regulated by the air compressor governor cut-out setting, a full service brake application may be made without lowering such reservoir pressure by more than twenty percent. Each reservoir shall be provided with means for readily draining accumulated oil or water.

(b) Vacuum brakes. After January 1, 1964, every truck with three or more axles equipped with vacuum assistor type brakes and every truck tractor and truck used for towing a vehicle equipped with vacuum brakes shall be equipped with a reserve capacity or a vacuum reservoir sufficient to insure that, with the reserve capacity or reservoir fully charged and with the engine stopped, a full service brake application may be made without depleting the vacuum supply by more than forty percent.

(c) Reservoir safeguarded. All motor vehicles, trailers, semitrailers, and pole trailers, when equipped with air or vacuum reservoirs or reserve capacity as required by this section, shall have such reservoirs or reserve capacity so safeguarded by a check valve or equivalent device that in the event of failure or leakage in its connection to the source of compressed air or vacuum, the stored air or vacuum shall not be depleted by the leak or failure.

(10) Warning devices.

(a) Air brakes. Every bus, truck, or truck tractor using compressed air for the operation of its own brakes or the brakes on any towed vehicle, shall be provided with a warning signal, other than a pressure gauge, readily audible or visible to the driver, which will operate at any time the air reservoir pressure of the vehicle is below fifty percent of the air compressor governor cut-out pressure. In addition, each such vehicle shall be equipped with a pressure gauge visible to the driver, which indicates in pounds per square inch the pressure available for braking.

(b) Vacuum brakes. After January 1, 1964, every truck tractor and truck used for towing a vehicle equipped with vacuum operated brakes and every truck with three or more axles using vacuum in the operation of its brakes, except those in driveaway or towaway operations, shall be equipped with a warning signal, other than a gauge indicating vacuum, readily audible or visible to the driver, which will operate at

any time the vacuum in the vehicle's supply reservoir or reserve capacity is less than eight inches of mercury.

(c) Combination of warning devices. When a vehicle required to be equipped with a warning device is equipped with both air and vacuum power for the operation of its own brakes or the brakes on a towed vehicle, the warning devices may be, but are not required to be, combined into a single device which will serve both purposes. A gauge or gauges indicating pressure or vacuum shall not be deemed to be an adequate means of satisfying this requirement. [1977 1st ex.s. c 355 § 27; 1965 ex.s. c 170 § 49; 1963 c 154 § 21; 1961 c 12 § 46.37.340. Prior: 1955 c 269 § 34; prior: 1937 c 189 § 34, part; RRS § 6360-34, part; RCW 46.36.020, 46.36.030, part; 1929 c 180 § 6; 1927 c 309 § 16; 1923 c 181 § 5; 1921 c 96 § 23; 1915 c 142 § 22; RRS § 6362-16.]

Reviser's note: RCW 46.37.340 was amended twice during the 1977 1st extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.360 Maintenance of brakes—Brake system failure indicator. (1) All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the front and back wheels and to wheels on opposite sides of the vehicle.

(2) All passenger cars manufactured on or after January 1, 1968, and other types of vehicles manufactured on or after September 1, 1975, shall be equipped with brake system failure indicator lamps which shall be maintained in good working order. The brake system shall demonstrate good working order and integrity by the application of a force of one hundred twenty-five pounds to the brake pedal for ten seconds without the occurrence of any of the following:

(i) Illumination of the brake system failure indicator lamp;

(ii) A decrease of more than eighty percent of service brake pedal height as measured from its free position to the floorboard or any other object which restricts service brake pedal travel;

(iii) Failure of any hydraulic line or other part.

(3) Brake hoses shall not be mounted so as to contact the vehicle body or chassis. In addition, brake hoses shall not be cracked, chafed, flattened, abraded, or visibly leaking. Protection devices such as "rub rings" shall not be considered part of the hose or tubing.

(4) Disc and drum condition. If the drum is embossed with a maximum safe diameter dimension or the rotor is embossed with a minimum safety thickness dimension, the drum or disc shall be within the appropriate specifications. These dimensions will be found on motor vehicles manufactured since January 1, 1971, and may be found on vehicles manufactured for several years prior to that time. If the drums and discs are not embossed, the drums and discs shall be within the manufacturer's specifications.

(5) Friction materials. On each brake the thickness of the lining or pad shall not be less than one thirty-second of an inch over the rivet heads, or the brake shoe on bonded linings or pads. Brake linings and pads shall not have cracks or breaks that extend to rivet holes except minor cracks that do not impair attachment. Drum brake linings shall be securely attached to brake shoes.

Disc brake pads shall be securely attached to shoe plates.

(6) Backing plates and caliper assemblies shall not be deformed or cracked. System parts shall not be broken, misaligned, missing, binding, or show evidence of severe wear. Automatic adjusters and other parts shall be assembled and installed correctly. [1977 1st ex.s. c 355 § 28; 1961 c 12 § 46.37.360. Prior: 1955 c 269 § 36; prior: 1951 c 56 § 2, part; 1937 c 189 § 34, part; RRS § 6360-34, part; RCW 46.36.020, 46.36.030, part; 1929 c 180 § 6; 1927 c 309 § 16; 1923 c 181 § 5; 1921 c 96 § 23; 1915 c 142 § 22; RRS § 6362-16.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.365 Hydraulic brake fluid—Defined—Standards and specifications. (1) The term "hydraulic brake fluid" as used in this section shall mean the liquid medium through which force is transmitted to the brakes in the hydraulic brake system of a vehicle.

(2) Hydraulic brake fluid shall be distributed and serviced with due regard for the safety of the occupants of the vehicle and the public.

(3) The state commission on equipment shall, in compliance with the provisions of chapter 34.04 RCW, the administrative procedure act, which govern the adoption of rules, adopt and enforce regulations for the administration of this section and shall adopt and publish standards and specifications for hydraulic brake fluid which shall correlate with, and so far as practicable conform to, the then current standards and specifications of the society of automotive engineers applicable to such fluid.

(4) No person shall distribute, have for sale, offer for sale, or sell any hydraulic brake fluid unless it complies with the requirements of this section and the standard specifications adopted by the state commission on equipment. No person shall service any vehicle with brake fluid unless it complies with the requirements of this section and the standards and specifications adopted by the state commission on equipment.

(5) Subsections (3) and (4) of this section shall not apply to petroleum base fluids in vehicles with brake systems designed to use them. [1977 1st ex.s. c 355 § 29; 1963 c 154 § 24.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

Effective date—1963 c 154: See note following RCW 46.37.010.

46.37.369 Wheels and front suspension. (1) No vehicle shall be equipped with wheel nuts, hub caps, or wheel discs extending outside the body of the vehicle when viewed from directly above which:

- (a) Incorporate winged projections; or
- (b) Constitute a hazard to pedestrians and cyclists.

For the purposes of this section, a wheel nut is defined as an exposed nut which is mounted at the center or hub of a wheel, and is not one of the ordinary hexagonal nuts which secure a wheel to an axle and are normally covered by a hub cap or wheel disc.

(2) Tire rims and wheel discs shall have no visible cracks, elongated bolt holes, or indications of repair by welding. In addition, the lateral and radial runout of

each rim bead area shall not exceed one-eighth of an inch of total indicated runout.

(3) King pins or ball joints shall not be worn to the extent that front wheels tip in or out more than one-quarter of an inch at the lower edge of the tire. [1977 1st ex.s. c 355 § 30.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

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

46.37.375 Steering and suspension systems. (1) Construction of steering control system. The steering control system shall be constructed and maintained so that no components or attachments, including horn activating mechanism and trim hardware, can catch the driver's clothing or jewelry during normal driving maneuvers.

(2) Maintenance of steering control system. System play, lash, or free play in the steering system shall not exceed the values tabulated herein.

Steering wheel diameter (inches)	Lash (inches)
16 or less	2
18	2-1/4
20	2-1/2
22	2-3/4

(3) Linkage play. Free play in the steering linkage shall not exceed one-quarter of an inch.

(4) Other components of the steering system such as the power steering belt, tie rods, or idler arms or Pitman arms shall not be broken, worn out, or show signs of breakage.

(5) Suspension condition. Ball joint seals shall not be cut or cracked. Structural parts shall not be bent or damaged. Stabilizer bars shall be connected. Springs shall not be broken, or extended by spacers. Shock absorber mountings, shackles, and U-bolts shall be securely attached. Rubber bushings shall not be cracked, or extruded out or missing from suspension joints. Radius rods shall not be missing or damaged.

(6) Shock absorber system. Shock absorbers shall not be loose from mountings, leak, or be inoperative.

(7) Alignment. Toe-in and toe-out measurements shall not be greater than one and one-half times the value listed in the vehicle manufacturer's service specification for alignment setting. [1977 1st ex.s. c 355 § 31.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.380 Horns, warning devices, and theft alarms.

(1) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with

his horn but shall not otherwise use such horn when upon a highway.

(2) No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle, or bell, except as otherwise permitted in this section.

(3) It is permissible for any vehicle to be equipped with a theft alarm signal device so long as it is so arranged that it cannot be used by the driver as an ordinary warning signal. Such a theft alarm signal device may use a whistle, bell, horn, or other audible signal but shall not use a siren.

(4) Any authorized emergency vehicle may be equipped with a siren, whistle, or bell, capable of emitting sound audible under normal conditions from a distance of not less than five hundred feet and of a type approved by the state commission on equipment, but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which said latter events the driver of such vehicle shall sound said siren when reasonably necessary to warn pedestrians and other drivers of the approach thereof. [1977 1st ex.s. c 355 § 32; 1961 c 12 § 46.37-.380. Prior: 1955 c 269 § 38; prior: 1937 c 189 § 35; RRS § 6360-35; RCW 46.36.040.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

Motorcycles and motor-driven cycles—Additional requirements and limitations: RCW 46.37.539.

46.37.390 Mufflers, prevention of noise—Smoke and air contaminants—Standards—Definitions. (1) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cut-out, bypass, or similar device upon a motor vehicle on a highway.

(2) (a) No motor vehicle first sold and registered as a new motor vehicle on or after January 1, 1971, shall discharge into the atmosphere at elevations of less than three thousand feet any air contaminant for a period of more than ten seconds which is:

(i) As dark as or darker than the shade designated as No. 1 on the Ringelmann chart, as published by the United States bureau of mines; or

(ii) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (a)(i) above.

(b) No motor vehicle first sold and registered prior to January 1, 1971, shall discharge into the atmosphere at elevations of less than three thousand feet any air contaminant for a period of more than ten seconds which is:

(i) As dark as or darker than the shade designated as No. 2 on the Ringelmann chart, as published by the United States bureau of mines; or

(ii) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (b)(i) above.

(c) For the purposes of this subsection the following definitions shall apply:

(i) "Opacity" means the degree to which an emission reduces the transmission of light and obscures the view of an object in the background;

(ii) "Ringelmann chart" means the Ringelmann smoke chart with instructions for use as published by the United States bureau of mines in May 1967 and as thereafter amended, information circular 7718.

(3) No person shall modify the exhaust system of a motor vehicle in a manner which will amplify or increase the noise emitted by the engine of such vehicle above that emitted by the muffler originally installed on the vehicle, and it shall be unlawful for any person to operate a motor vehicle not equipped as required by this subsection, or which has been amplified as prohibited by this subsection. [1977 1st ex.s. c 355 § 33; 1972 ex.s. c 135 § 1; 1967 c 232 § 3; 1961 c 12 § 46.37.390. Prior: 1955 c 269 § 39; prior: 1937 c 189 § 36; RRS § 6360-36; RCW 46.36.050; 1927 c 309 § 17; 1921 c 96 § 21; 1915 c 142 § 20; RRS § 6362-17.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

Motorcycles and motor-driven cycles—Additional requirements and limitations: RCW 46.37.539.

46.37.400 Mirrors. (1) Every motor vehicle shall be equipped with a mirror mounted on the left side of the vehicle and so located to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of such vehicle.

(2) Every motor vehicle shall be equipped with an additional mirror mounted either inside the vehicle approximately in the center or outside the vehicle on the right side and so located as to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of such vehicle.

(3) All mirrors required by this section shall be maintained in good condition. [1977 1st ex.s. c 355 § 34; 1963 c 154 § 25; 1961 c 12 § 46.37.400. Prior: 1955 c 269 § 40; prior: 1937 c 189 § 37; RRS § 6360-37; RCW 46.36.060.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

Effective date—1963 c 154: See note following RCW 46.37.010.

Motorcycles and motor-driven cycles—Additional requirements and limitations: RCW 46.37.539.

46.37.410 Windshields required, exception—Must be unobstructed and equipped with wipers. (1) All motor vehicles operated on the public highways of this state shall be equipped with a front windshield manufactured of safety glazing materials for use in motor vehicles in accordance with RCW 46.37.430, except, however, on such vehicles not so equipped or where windshields are not in use, the operators of such vehicles shall wear glasses, goggles, or face shields pursuant to RCW 46.37.530(1)(b).

(2) No person shall drive any motor vehicle with any sign, poster, or other nontransparent material upon the front windshield, side wings, or side or rear windows of such vehicle which obstructs the driver's clear view of the highway or any intersecting highway.

(3) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle. After January 1, 1938, it shall be unlawful for any person to operate a new motor vehicle first sold or delivered after that date which is not equipped with such device or devices in good working order capable of cleaning the windshield thereof over two separate arcs, one each on the left and right side of the windshield, each capable of cleaning a surface of not less than one hundred twenty square inches, or other device or devices capable of accomplishing substantially the same result.

(4) Every windshield wiper upon a motor vehicle shall be maintained in good working order. [1977 1st ex.s. c 355 § 35; 1961 c 12 § 46.37.410. Prior: 1955 c 269 § 41; prior: (i) 1937 c 189 § 38; RRS § 6360-38; RCW 46.36.070. (ii) 1937 c 189 § 39; RRS § 6360-39; RCW 46.36.080.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.420 Restrictions as to tire equipment.

Motorcycles and motor-driven cycles—Additional requirements and limitations: RCW 46.37.539.

46.37.424 Regrooved tires—Standards—Exception for off-highway use—Penalty. No person, firm or corporation shall sell or offer for sale any regrooved tire or shall regroove any tire for use on the public highways of this state which does not meet the standard established by federal motor vehicle standard part 569—regrooved tires, as promulgated by the United States department of transportation under authority of the National Traffic and Motor Vehicle Safety Act of 1966 (80 Stat. 719, 728; 15 U.S.C. 1392, 1407).

The applicable standard shall be the version of the federal regrooved tire standard in effect at the time of regrooving.

Any person, firm, or corporation who shall sell or offer for sale any regrooved tire or shall regroove any tire which does not meet the standards prescribed in this section shall be guilty of a misdemeanor unless such tires are sold or regrooved for off-highway use, as evidenced by a statement signed by the purchaser or regroover at the time of sale or regrooving certifying that he is not purchasing or regrooving such tires for use on the public highways of this state. [1977 1st ex.s. c 355 § 36; 1971 c 77 § 2.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.425 Authority of state commission on equipment with reference to tires—Rules and regulations—Penalty. No person shall drive or move or cause to be driven or moved any vehicle, the tires of which have contact with the driving surface of the road, subject to registration in this state, upon the public highways of this state unless such vehicle is equipped with tires in safe operating condition in accordance with

requirements established by this section or by the state commission on equipment.

The state commission on equipment shall promulgate rules and regulations setting forth requirements of safe operating condition of tires capable of being employed by a law enforcement officer by visual inspection of tires mounted on vehicles including visual comparison with simple measuring gauges. These rules shall include effects of tread wear and depth of tread.

A tire shall be considered unsafe if it has:

(1) Any ply or cord exposed either to the naked eye or when cuts or abrasions on the tire are probed; or

(2) Any bump, bulge, or knot, affecting the tire structure; or

(3) Any break repaired with a boot; or

(4) A tread depth of less than 2/32 of an inch measured in any two major tread grooves at three locations equally spaced around the circumference of the tire, or for those tires with tread wear indicators, a tire shall be considered unsafe if it is worn to the point that the tread wear indicators contact the road in any two major tread grooves at three locations equally spaced around the circumference of the tire; or

(5) A legend which indicates the tire is not intended for use on public highways such as, "not for highway use", or "for racing purposes only"; or

(6) Such condition as may be reasonably demonstrated to render it unsafe; or

(7) If not matched in tire size designation, construction, and profile to the other tire and/or tires on the same axle.

No person, firm, or corporation shall sell any vehicle for use on the public highways of this state unless the vehicle is equipped with tires that are in compliance with the provisions of this section. If the tires are found to be in violation of the provisions of this section, the person, firm, or corporation selling the vehicle shall cause such tires to be removed from the vehicle and shall equip the vehicle with tires that are in compliance with the provisions of this section.

Any person operating a vehicle on the public highways of this state, or selling a vehicle for use on the public highways of this state, which is equipped with a tire or tires in violation of the provisions of this section or the rules and regulations promulgated by the state commission on equipment hereunder shall be guilty of a misdemeanor: *Provided, however,* That if the violation relates to items (1) to (7) inclusive of this section then the condition or defect must be such that it can be detected by a visual inspection of tires mounted on vehicles, including visual comparison with simple measuring gauges. [1977 1st ex.s. c 355 § 37; 1971 c 77 § 3.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

Effective date—1971 c 77: "The provisions of RCW 46.37.425 shall have an effective date of January 1, 1972, but the state commission on equipment shall have the authority to proceed with the promulgation of the rules and regulations provided for in RCW 46.37.425 so the rules and regulations may have an effective date of January 1, 1972." [1971 c 77 § 4.]

46.37.440 Certain vehicles to carry flares or other warning devices. (1) No person shall operate any motor

truck, passenger bus, truck tractor, motor home, or travel trailer over eighty inches in overall width upon any highway outside the corporate limits of municipalities at any time unless there shall be carried in such vehicle the following equipment except as provided in subsection (2):

(a) At least three flares or three red electric lanterns or three portable red emergency reflectors, each of which shall be capable of being seen and distinguished at a distance of not less than six hundred feet under normal atmospheric conditions at nighttime.

No flare, fusee, electric lantern, or cloth warning flag shall be used for the purpose of compliance with the requirements of this section unless such equipment is of a type which has been submitted to the state commission on equipment and approved by it. No portable reflector unit shall be used for the purpose of compliance with the requirements of this section unless it is so designed and constructed as to be capable of reflecting red light clearly visible from all distances within six hundred feet to one hundred feet under normal atmospheric conditions at night when directly in front of lawful upper beams of head lamps, and unless it is of a type which has been submitted to the state commission on equipment and approved by it;

(b) At least three red-burning fusees unless red electric lanterns or red portable emergency reflectors are carried;

(c) At least two red-cloth flags, not less than twelve inches square, with standards to support such flags.

(2) No person shall operate at the time and under conditions stated in subsection (1) any motor vehicle used for the transportation of explosives, any cargo tank truck used for the transportation of flammable liquids or compressed gases or liquefied gases, or any motor vehicle using compressed gas as a fuel unless there shall be carried in such vehicle three red electric lanterns or three portable red emergency reflectors meeting the requirements of subsection (1) of this section, and there shall not be carried in any said vehicle any flares, fusees, or signal produced by flame. [1977 1st ex.s. c 355 § 38; 1971 ex.s. c 97 § 1; 1961 c 12 § 46.37.440. Prior: 1955 c 269 § 44; prior: 1947 c 267 § 7, part; Rem. Supp. 1947 § 6360-32a, part; RCW 46.40.210, part.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.465 Fuel system. (1) The fuel system shall be manufactured, installed, and maintained with due regard for the safety of the occupants of the vehicle and the public. Fuel tanks shall be equipped with approved caps.

(2) There shall be no signs of leakage from the carburetor or the fuel pump or the fuel hoses in the engine compartment or between the fuel tank and the engine compartment.

(3) No person shall operate any motor vehicle upon the public highways of this state unless the fuel tank is securely attached and so located that another vehicle would not be exposed to direct contact with the fuel tank in the event of a rear end collision. [1977 1st ex.s. c 355 § 39.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.480 Television viewers—Earphones. No person shall drive any motor vehicle equipped with any television viewer, screen or other means of visually receiving a television broadcast which is located in the motor vehicle at any point forward of the back of the driver's seat, or which is visible to the driver while operating the motor vehicle.

No person shall operate any motor vehicle on a public highway while wearing any headset or earphones connected to any electronic device capable of receiving a radio broadcast or playing a sound recording for the purpose of transmitting a sound to the human auditory senses and which headset or earphones muffle or exclude other sounds. [1977 1st ex.s. c 355 § 40; 1961 c 12 § 46.37.480. Prior: 1949 c 196 § 11; Rem. Supp. 1949 § 6360-98d. Formerly RCW 46.36.150.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.500 Fenders or splash aprons. No person shall operate any motor vehicle, trailer, or semitrailer that is not equipped with fenders, covers, flaps, or splash aprons adequate for minimizing the spray or splash of water or mud from the roadway to the rear of the vehicle. All such devices shall be as wide as the tires behind which they are mounted and extend downward at least to the center of the axle. [1977 1st ex.s. c 355 § 41; 1961 c 12 § 46.37.500. Prior: 1947 c 200 § 3, part; 1937 c 189 § 44, part; Rem. Supp. 1947 § 6360-44, part. Formerly RCW 46.36.130 (second paragraph).]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.510 Seat belts and shoulder harnesses. (1) No person shall sell any automobile manufactured or assembled after January 1, 1964, nor shall any owner cause such vehicle to be registered thereafter under the provisions of chapter 46.12 RCW unless such motor car or automobile is equipped with automobile seat belts installed for use on the front seats thereof which are of a type and installed in a manner approved by the state commission on equipment. Where registration is for transfer from an out of state license, applicant shall be informed of this section by issuing agent and have thirty days to comply. The state commission on equipment shall adopt and enforce standards as to what shall constitute adequate and safe seat belts and for the fastening and installation thereof, such standards not to be below those specified as minimum requirements by the Society of Automotive Engineers on June 13, 1963.

(2) Every passenger car manufactured or assembled after January 1, 1965, shall be equipped with at least two lap-type safety belt assemblies for use in the front seating positions.

(3) Every passenger car manufactured or assembled after January 1, 1968, shall be equipped with a lap-type safety belt assembly for each permanent passenger seating position. This requirement shall not apply to police vehicles.

(4) Every passenger car manufactured or assembled after January 1, 1968, shall be equipped with at least two shoulder harness-type safety belt assemblies for use in the front seating positions.

(5) The commission on equipment shall excuse specified types of motor vehicles or seating positions within any motor vehicle from the requirements imposed by subsections (1), (2), and (3) of this section when compliance would be impractical.

(6) No person shall distribute, have for sale, offer for sale, or sell any safety belt or shoulder harness for use in motor vehicles unless it meets current minimum standards and specifications approved by the commission or the United States department of transportation. [1977 1st ex.s. c 355 § 42; 1963 c 117 § 1.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.513 Bumpers. When any motor vehicle was originally equipped with bumpers or any other collision energy absorption or attenuation system, that system shall be maintained in good operational condition, and no person shall remove or disconnect, and no owner shall cause or knowingly permit the removal or disconnection of, any part of that system except temporarily in order to make repairs, replacements, or adjustments. [1977 1st ex.s. c 355 § 43.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.517 Body and body hardware. (1) The body, fenders, and bumpers shall be maintained without protrusions which could be hazardous to pedestrians. In addition, the bumpers shall be so attached and maintained so as to not protrude beyond the original bumper line.

(2) The hood, hood latches, hood fastenings, doors, and door latches shall be maintained in a condition sufficient to ensure proper working equal to that at the time of original vehicle manufacture. [1977 1st ex.s. c 355 § 44.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.522 Motorcycles and motor-driven cycles—When head lamps and tail lamps to be lighted. Every motorcycle and motor-driven cycle shall have its head lamps and tail lamps lighted whenever such vehicle is in motion upon a highway. [1977 1st ex.s. c 355 § 45.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.523 Motorcycles and motor-driven cycles—Head lamps. (1) Every motorcycle and every motor-driven cycle shall be equipped with at least one lamp which shall comply with the requirements and limitations of this section.

(2) Every head lamp upon every motorcycle and motor-driven cycle shall be located at a height of not more than fifty-four inches nor less than twenty-four inches to be measured as set forth in RCW 46.37.030(2).

(3) Every motorcycle other than a motor-driven cycle shall be equipped with multiple-beam road-lighting equipment.

(4) Such equipment shall:

(a) Reveal persons and vehicles at a distance of at least three hundred feet ahead when the uppermost distribution of light is selected;

(b) Reveal persons and vehicles at a distance of at least one hundred fifty feet ahead when the lowermost distribution of light is selected, and on a straight, level road under any condition of loading none of the high intensity portion of the beam shall be directed to strike the eyes of an approaching driver. [1977 1st ex.s. c 355 § 46.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.524 Motor-driven cycles—Head lamps. The head lamp or head lamps upon every motor-driven cycle may be of the single-beam or multiple-beam type but in either event shall comply with the requirements and limitations as follows:

(1) Every such head lamp or head lamps on a motor-driven cycle shall be of a sufficient intensity to reveal a person or a vehicle at a distance of not less than one hundred feet when the motor-driven cycle is operated at any speed less than twenty-five miles per hour and at a distance of not less than two hundred feet when the motor-driven cycle is operated at a speed of twenty-five or more miles per hour, and at a distance of not less than three hundred feet when the motor-driven cycle is operated at a speed of thirty-five or more miles per hour;

(2) In the event the motor-driven cycle is equipped with a multiple-beam head lamp or head lamps the upper beam shall meet the minimum requirements set forth above and shall not exceed the limitations set forth in RCW 46.37.220(1), and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light as set forth in RCW 46.37.220;

(3) In the event the motor-driven cycle is equipped with a single-beam lamp or lamps, such lamp or lamps shall be so aimed that when the vehicle is loaded none of the high-intensity portion of light, at a distance of twenty-five feet ahead, shall project higher than the level of the center of the lamp from which it comes. [1977 1st ex.s. c 355 § 47.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.525 Motorcycles and motor-driven cycles—Tail lamps, reflectors, and stop lamps. (1) Every motorcycle and motor-driven cycle shall have at least one tail lamp which shall be located at a height of not more than seventy-two nor less than fifteen inches.

(2) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty feet to the rear. Any tail lamp or tail lamps, together with any separate lamp or lamps for illuminating the rear registration plate, shall

be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

(3) Every motorcycle and motor-driven cycle shall carry on the rear, either as part of the tail lamp or separately, at least one red reflector meeting the requirements of RCW 46.37.060.

(4) Every motorcycle and motor-driven cycle shall be equipped with at least one stop lamp meeting the requirements of RCW 46.37.070. [1977 1st ex.s. c 355 § 48.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.527 Motorcycles and motor-driven cycles—Brake requirements. Every motorcycle and motor-driven cycle must comply with the provisions of RCW 46.37.351, except that:

(1) Motorcycles and motor-driven cycles need not be equipped with parking brakes;

(2) The wheel of a sidecar attached to a motorcycle or to a motor-driven cycle, and the front wheel of a motor-driven cycle need not be equipped with brakes, if such motorcycle or motor-driven cycle is otherwise capable of complying with the braking performance requirements of RCW 46.37.528 and 46.37.529. [1977 1st ex.s. c 355 § 49.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.528 Motorcycles and motor-driven cycles—Performance ability of brakes. Every motorcycle and motor-driven cycle, at all times and under all conditions of loading, upon application of the service brake, shall be capable of:

(1) Developing a braking force that is not less than forty-three and one-half percent of its gross weight;

(2) Decelerating to a stop from not more than twenty miles per hour at not less than fourteen feet per second per second; and

(3) Stopping from a speed of twenty miles per hour in not more than thirty feet, such distance to be measured from the point at which movement of the service brake pedal or control begins.

Tests for deceleration and stopping distance shall be made on a substantially level (not to exceed plus or minus one percent grade), dry, smooth, hard surface that is free from loose material. [1977 1st ex.s. c 355 § 50.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.529 Motor-driven cycles—Braking system inspection. (1) The state commission on equipment is authorized to require an inspection of the braking system on any motor-driven cycle and to disapprove any such braking system on a vehicle which it finds will not comply with the performance ability standard set forth in RCW 46.37.351, or which in its opinion is equipped with a braking system that is not so designed or constructed as to ensure reasonable and reliable performance in actual use.

(2) The director of motor vehicles may refuse to register or may suspend or revoke the registration of any

vehicle referred to in this section when the state commission on equipment determines that the braking system thereon does not comply with the provisions of this section.

(3) No person shall operate on any highway any vehicle referred to in this section in the event the state commission on equipment has disapproved the braking system upon such vehicle. [1977 1st ex.s. c 355 § 51.]

Reviser's note: The "director of motor vehicles" redesignated the "director of licensing" by 1977 1st ex.s. c 334: See RCW 46.01.020.

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.530 Motorcycles or motor-driven cycles—Mirrors, glasses, goggles, face shields, and helmets—Regulations and specifications by state commission on equipment. (1) It shall be unlawful:

(a) For any person to operate a motorcycle or motor-driven cycle not equipped with a mirror on the left side of the handlebars which shall be so located as to give the driver a complete view of the highway for a distance of at least two hundred feet to the rear of the motorcycle or motor-driven cycle.

(b) For any person to operate a motorcycle or motor-driven cycle which does not have a windshield unless he wears glasses, goggles, or a face shield of a type approved by the state commission on equipment.

(2) The state commission on equipment is hereby authorized and empowered to adopt and amend regulations, pursuant to the administrative procedure act, concerning the standards and procedures for approval of glasses, goggles, face shields and protective helmets. The state commission on equipment shall maintain and publish a list of those devices which the commission on equipment has approved. [1977 1st ex.s. c 355 § 55; 1971 ex.s. c 150 § 1; 1969 c 42 § 1; 1967 c 232 § 4.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

Maximum height for handlebars: RCW 46.61.611.

Riding on motorcycles: RCW 46.61.610.

46.37.535 Motorcycles or motor-driven cycles—Helmet requirements when motorcycle rented. It is unlawful for any person to rent out motorcycles unless he shall also have on hand for rent helmets of a type approved by the commission on equipment. [1977 1st ex.s. c 355 § 56; 1967 c 232 § 10.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

License requirement for person renting motorcycle: RCW 46.20.220.

46.37.537 Motorcycles—Exhaust system. No person shall modify the exhaust system of a motorcycle in a manner which will amplify or increase the noise emitted by the engine of such vehicle above that emitted by the muffler originally installed on the vehicle, and it shall be unlawful for any person to operate a motorcycle not equipped as required by this section, or which has been amplified as prohibited by this section. [1977 1st ex.s. c 355 § 52.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

46.37.539 Motorcycles and motor-driven cycles—Additional requirements and limitations. Every motorcycle and every motor-driven cycle shall also comply with the requirements and limitations of:

- RCW 46.37.380 on horns and warning devices;
- RCW 46.37.390 on mufflers and prevention of noise;
- RCW 46.37.400 on mirrors; and
- RCW 46.37.420 on tires. [1977 1st ex.s. c 355 § 53.]

Severability—1977 1st ex.s. c 355: See note following RCW 46.37.010.

Chapter 46.39

INTERSTATE COMPACT FOR SCHOOL BUS SAFETY

Sections

- 46.39.010 Compact enacted—Provisions.
- 46.39.020 Designation of Washington state commissioners.

46.39.010 Compact enacted—Provisions. The "Interstate Compact for School Bus Safety" is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

INTERSTATE COMPACT FOR SCHOOL BUS SAFETY

ARTICLE I

FINDINGS AND PURPOSES

(a) The party states find that:

(1) School transportation is an integral part of our education systems. The increasing volume of traffic on streets and highways, with larger numbers of school children being transported each year, presents a serious problem in safety that requires regulation and control.

(2) During recent years the various states have each developed their own rules, regulations and standards which govern the operation of school buses in the individual states, thus creating vast differences in construction standards and operational procedures.

(3) Standardization by means of interstate cooperation, exchange of information, and the promulgation of uniform practices among the states can do much to mitigate present hazards and at the same time generate cost reductions and improved service.

(b) The purposes of this compact are to:

(1) Promote uniformity in regulation of and standards for school bus equipment.

(2) Secure uniformity of law and administrative practices in school bus vehicle regulation and related safety standards, incorporating desirable equipment changes in the interest of greater school bus safety.

(3) Establish a means whereby the states party to this compact shall jointly agree on certain school bus minimum standards and procedures including, without limitation by the enumeration, the following:

(i) Items which affect the motorist, such as use of lights, signs, and signaling devices that control traffic;

(ii) Procedural activities of school bus drivers in controlling traffic; and in the loading and unloading of buses;

(iii) Construction and other specifications which can lead to lower initial costs and the interchangeability of school buses among states;

(iv) A framework within which the party states may develop uniform driver training programs; and

(v) Development of accurate and uniform accident statistical reporting among the party states.

(4) Encourage and utilize research which will facilitate achievement of the foregoing purposes, with due regard for the findings set forth in subsection (a) of this Article.

(5) It is recognized that there are inherent differences in transportation needs in each of the party states. It shall not be the purpose of this compact to abridge, impair or adversely affect the jurisdiction or authority of the individual states to regulate and control their own school transportation systems.

(6) Investigate the safety and economic advantage of children being transported.

**ARTICLE II
DEFINITIONS**

(a) "State" means a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other special commonwealth as may be established by the Government of the United States.

(b) "School bus" shall have the same meaning as provided in RCW 46.04.521.

(c) "Equipment" means the equipment required for school buses under chapter 46.37 RCW.

**ARTICLE III
THE COMMISSION**

(a) There is hereby created an agency of the party states to be known as the "Western States School Bus Safety Commission" (hereinafter called the Commission). The Commission shall consist of not less than one nor more than three commissioners from each State, each of whom shall be a citizen of the State from which he is appointed, and not less than one or nor more than three commissioners representing the United States Government. The commissioners from each State shall be chosen in the manner and for the terms provided by the laws of the States from which they shall be appointed, provided that at least one member shall be appointed from the State agency which has primary responsibility for pupil transportation in that State. Any commissioner may be removed or suspended from office as provided by the law of the State from which he shall be appointed. The commissioners representing the United States shall be appointed by the President of the United States, or in such other manner as may be provided by Congress. The commissioners shall serve without compensation, but shall be paid their actual expenses incurred in and incidental to the performance of their duties; but nothing herein shall prevent the appointment of an officer or employee of any State or of the United States Government.

(b) Each state delegation shall be entitled to one vote, and the presence of commissioners from a majority of

the party states shall constitute a quorum for the transaction of business at any meeting of the Commission. A majority vote of the quorum will be required to adopt any measure before the Commission. The commissioners representing the United States Government shall act in an advisory capacity and shall not have voting powers.

(c) The Commission shall have a seal.

(d) The Commission shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The Commission shall appoint an Executive Director who shall serve at its pleasure and who shall also act as Secretary, and who, together with the Treasurer, shall be bonded in such amounts as the Commission may require.

(e) The Executive Director, with the approval of the Commission, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Commission's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

(f) The Commission may establish and maintain, independently or in conjunction with any one or more of the party states, a suitable retirement system for its full-time employees. The Commission may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The Commission may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

(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, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations. The Commission shall publish its bylaws, rules, and regulations in convenient form and shall file a copy thereof and shall also file 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 the legislature of each party state, a report covering the activities of the Commission for the preceding year, and embodying such recommendations as may have been adopted by the Commission. The Commission may issue such additional reports as it may deem desirable.

ARTICLE IV FUNCTIONS AND ACTIVITIES

(a) The Commission shall have power to perform the following functions and activities that relate to school bus transportation:

(1) Recommend and encourage research, testing and training activities to the extent the Commission finds necessary.

(2) Contract for research, testing and training activities on behalf of the Commission itself or for one or

more governmental agencies if they provide special funding for that purpose.

(3) Engage directly in such activities to the extent approved by the Commission.

(4) Recommend to the party states of needed changes in law or policy with emphasis on uniformity of laws and administrative rules, regulations or codes which would promote effective governmental action or coordination of school bus construction, equipment, safety programs, and school bus driver training.

(5) The Commission shall send prompt notice of its action in issuing any rule, regulation or code pursuant to this article to the appropriate agency of each party state and such notice shall contain the complete text of the rule, regulation or code.

(6) Each party state, recognizing that to carry out the intent of this compact, obligates itself to adopt in identical terms, all rules, regulations and specifications which are standardized through due process to the States.

(b) The Commission may establish such advisory and technical committees as may be necessary, membership on which may include public officials and private citizens. The Commission may also cooperate with other governmental agencies and interstate organizations and with organizations representing the private sector.

ARTICLE V FINANCE

(a) Moneys necessary to finance the Commission in carrying out its duties shall be provided through appropriations from the states party to this compact, said payments to be in direct proportion to the number of school buses registered in the respective party states. The initial rate of payment shall be figured at \$0.50 per bus, provided that no state shall contribute less than \$500.00 per annum. The annual contribution of each state above the minimum shall be figured to the nearest one hundred dollars. Subsequent budgets shall be determined by the Commission, and the cost thereof allocated in the same proportion as the initial budget.

(b) The Commission may accept for any of its purposes under this compact any and all donations, and grants of money, equipment, supplies, materials, and services (conditional and 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 may receive, utilize and dispose of the same.

ARTICLE VI ENTRY INTO FORCE AND WITHDRAWAL

(a) This compact shall enter into immediate force and effect as to any state when enacted by it into law, and such state shall thereafter be a party thereto with any and all states joining therein.

(b) It is the purpose of this compact to provide the necessary legal basis for implementation and adoption by each party state of the standardized rules, regulations and specifications as adopted by the Commission. Consistent with the laws of each party state, there shall be a "compact administrator" who, acting jointly with like officials of other party states, shall promulgate necessary

rules, regulations and specifications within that state to carry out the actions and directives of the Commission.

(c) Any state party to this compact may, by legislative act after one year's notice to the Commission, withdraw from the compact. The compact may also be terminated at any time by the unanimous agreement of the several party states. Withdrawal shall not relieve a state from its obligations hereunder prior to the effective withdrawal date.

(d) If any state shall at any time default in the performance of any of its obligations assumed herein or with respect to any obligation imposed upon said state as authorized by and in compliance with the terms and provisions of this compact, all rights, privileges and benefits of such defaulting state and its members on the Commission shall be suspended after the date of such default. Such suspension shall in no manner release such defaulting state from any accrued obligation or otherwise affect this compact or the rights, duties, privileges or obligations of the remaining states thereunder.

ARTICLE VII SEVERABILITY

(a) The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be unconstitutional or the applicability thereof to any state, agency, person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to any other state, agency, person or circumstances shall not be affected thereby. It is the legislative intent that the provisions of this compact be reasonably and liberally construed. [1977 1st ex.s. c 88 § 1.]

46.39.020 Designation of Washington state commissioners. The Washington state commissioners to the western states school bus safety commission shall be the director of highways, the superintendent of public instruction and the chief of the Washington state patrol or their respective designees. Annually the Washington commissioners shall elect a chairman from their own membership who shall serve for one year commencing July 1. Election as chairman shall not interfere with the member's right to vote on all matters before the Washington commissioners. The Washington commissioners may by majority vote designate one of their members to represent the state on any matter coming before the Western states school bus safety commission. [1977 1st ex.s. c 88 § 2.]

Reviser's note: Powers, duties, and functions of director of highways transferred to department of transportation; see RCW 47.01.031. Term "director of highways" means secretary of transportation; see RCW 47.04.015.

Chapter 46.44 SIZE, WEIGHT, LOAD

Sections

46.44.020	Maximum height—Impaired clearance signs.
46.44.030	Maximum lengths.
46.44.041	Maximum gross weights—Axle factor.
46.44.080	Local regulations—State highway regulations.

46.44.090	Special permits for oversize or overweight movements.
46.44.091	Special permits for oversize or overweight movements—Gross weight limit.
46.44.092	Special permits for oversize or overweight movements—Overall width limits—Application for permit.
46.44.095	Annual additional tonnage permits—Fees.
46.44.170	Mobile home movement special permit—County treasurer certification of taxes paid—Vehicle license plates—Rules.
46.44.173	Notice to treasurer and assessor of county where mobile home to be located.
46.44.175	Penalties—Hearing.

46.44.020 Maximum height—Impaired clearance signs. It shall be unlawful for any vehicle unladen or with load to exceed a height of fourteen feet above the level surface upon which the vehicle stands: *Provided*, That this height limitation shall not apply to authorized emergency vehicles or repair equipment of a public utility engaged in reasonably necessary operation. The provisions of this section shall not relieve the owner or operator of a vehicle or combination of vehicles from the exercise of due care in determining that sufficient vertical clearance is provided upon the public highways where such vehicle or combination of vehicles is being operated; and no liability shall attach to the state or to any county, city, town, or other political subdivision by reason of any damage or injury to persons or property by reason of the existence of any structure over or across any public highway where the vertical clearance above the roadway is fourteen feet or more; or, where such vertical clearance is less than fourteen feet, if impaired clearance signs of a design approved by the Washington state highway commission are erected and maintained on the right side of any such public highway in accordance with the manual of uniform traffic control devices for streets and highways as adopted by the Washington state highway commission pursuant to chapter 47.36 RCW. If any structure over or across any public highway is not owned by the state or by a county, city, town, or other political subdivision, it shall be the duty of the owner thereof when billed therefor to reimburse the Washington state highway commission or the county, city, town, or other political subdivision having jurisdiction over such highway for the actual cost of erecting and maintaining such impaired clearance signs, but no liability shall attach to such owner by reason of any damage or injury to persons or property caused by impaired vertical clearance above the roadway. [1977 c 81 § 1; 1975-'76 2nd ex.s. c 64 § 7; 1971 ex.s. c 248 § 1; 1965 c 43 § 1; 1961 c 12 § 46.44.020. Prior: 1959 c 319 § 26; 1955 c 384 § 1; 1953 c 125 § 1; 1951 c 269 § 20; 1937 c 189 § 48; RRS § 6360-48.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "Washington state highway commission" means department of transportation; see RCW 47.04.015.

Effective dates—Severability—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

46.44.030 Maximum lengths. It is unlawful for any person to operate upon the public highways of this state any vehicle other than a municipal transit vehicle having an overall length, with or without load, in excess of

thirty-five feet: *Provided*, That an auto stage or school bus shall not exceed an overall length, inclusive of front and rear bumpers, of forty feet: *Provided further*, That any such school bus constructed prior to April 1, 1977, shall be equipped with three axles: *Provided further*, That any school bus constructed on or after April 1, 1977, and in excess of thirty-six feet six inches shall be equipped with three axles: *Provided further*, That the route of any auto stage in excess of thirty-five feet or school bus in excess of thirty-six feet six inches upon or across the public highways shall be limited as determined by the state highway commission for state highways, or by the local legislative authority for other public roads.

It is unlawful for any person to operate on the highways of this state any combination of vehicles which contains a vehicle of which the permanent structure is in excess of forty-five feet.

It is unlawful for any person to operate upon the public highways of this state any combination consisting of a nonstinger steered tractor and semitrailer which has an overall length in excess of sixty-five feet.

It is unlawful for any person to operate on the highways of this state any combination consisting of a truck and trailer, or any lawful combination of three vehicles, with an overall length, with or without load, in excess of sixty-five feet, or a combination consisting of a tractor and a stinger steered semitrailer which has an overall length in excess of sixty-five feet without load or in excess of seventy feet with load.

"Stinger steered" as used in this section shall mean a tractor and semitrailer combination which has the coupling connecting the semitrailer to the tractor located to the rear of the center line of the rear axle of the tractor.

These length limitations shall not apply to vehicles transporting poles, pipe, machinery or other objects of a structural nature which cannot be dismembered and operated by a public utility when required for emergency repair of public service facilities or properties but in respect to night transportation every such vehicle and load thereon shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps upon the extreme ends of any projecting load to clearly mark the dimensions of such load. [1977 1st ex.s. c 64 § 1; 1975-'76 2nd ex.s. c 53 § 1; 1974 ex.s. c 76 § 2; 1971 ex.s. c 248 § 2; 1967 ex.s. c 145 § 61; 1963 ex.s. c 3 § 52; 1961 ex.s. c 21 § 36; 1961 c 12 § 46.44.030. Prior: 1959 c 319 § 25; 1957 c 273 § 14; 1951 c 269 § 22; prior: 1949 c 221 § 1, part; 1947 c 200 § 5, part; 1941 c 116 § 1, part; 1937 c 189 § 49, part; Rem. Supp. 1949 § 6360-49, part.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "state highway commission" means department of transportation; see RCW 47.04.015.

Severability—1967 ex.s. c 145: See RCW 47.98.043.

46.44.041 Maximum gross weights—Axle factor.

No vehicle or combination of vehicles shall operate upon the public highways of this state with a gross load on any single axle in excess of twenty thousand pounds, or upon any group of axles in excess of that set forth in the following table, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each, if the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more.

Dis- tance in feet between the ex- tremes of any group of 2 or more consecu- tive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles							
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles
4	34,000							
5	34,000							
6	34,000							
7	34,000							
8	34,000	36,500						
9	39,000	38,000						
10	40,000	39,500						
11		41,000						
12		42,500	42,500					
13		44,000	44,000					
14		45,500	45,500					
15		47,000	47,000					
16		48,000	48,000	48,000				

*(Maximum load in pounds carried on any group of 2 consecutive sets of tandem axles)

Title 46: Motor Vehicles

Dis-
tance
in feet
between
the ex-
tremes
of any
group
of 2
or more
consecu-
tive
axles

Maximum load in pounds
carried on any group of 2
or more consecutive axles

*(Maximum load in pounds carried
on any group of 2 consecutive
sets of tandem axles)

	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles
17		48,500	48,500	49,000				
18		49,500	49,500	50,000				
19		50,000	50,000	51,000				
20		51,000	51,000	52,000	52,000			
			(55,500)*					
21		51,500	51,500	53,000	53,000			
			(56,000)*					
22		52,500	52,500	54,000	54,000			
			(56,500)*					
23		53,000	53,000	55,000	55,000			
			(57,500)*					
24		54,000	54,000	55,500	56,000	56,000		
			(58,000)*					
25		54,500	55,000	56,500	57,000	57,000		
			(58,500)*					
26		55,500	56,000	57,500	58,000	58,000		
			(59,500)*					
27		56,000	57,000	58,500	59,000	59,000		
			(60,000)*					
28		57,000	58,000	60,000	60,000	60,000	60,000	
			(60,500)*					
29		57,500	59,000	60,500	61,000	61,000	61,000	
			(61,500)*					
30		58,500	59,000	61,500	62,000	62,000	62,000	
			(62,000)*					
31		59,000	60,500	62,500	63,000	63,000	63,000	
			(62,500)*					
32		60,000	61,500	63,500	64,000	64,000	64,000	64,000
			(63,500)*					
33			62,500	64,500	65,000	65,000	65,000	65,000
			(64,000)*					
34			63,500	65,000	66,500	66,500	66,500	66,500
			(64,500)*					
35			64,500	66,500	67,500	67,500	67,500	67,500
			(65,500)*					
36			65,500	67,500	68,500	68,500	68,500	68,500
			(68,000)*					
37			66,500	68,500	69,500	69,500	69,500	69,500
38			67,500	69,000	70,500	70,500	70,500	70,500
39			68,000	70,000	71,500	71,500	71,500	71,500
40			68,500	71,000	72,500	72,500	72,500	72,500
41			69,500	72,000	73,500	73,500	73,500	73,500
42			70,000	73,000	74,500	74,500	74,500	74,500
43			70,500	74,000	75,500	75,500	75,500	75,500
44			71,500	75,000	76,500	76,500	76,500	76,500
45			72,000	76,000	78,000	78,000	78,000	78,000
46			72,500	76,500	79,000	79,000	79,000	79,000
47			73,500	77,500	80,000	80,000	80,000	80,000

Dis- tance in feet between the ex- tremes of any group of 2 or more consecu- tive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles							
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles
	*(Maximum load in pounds carried on any group of 2 consecutive sets of tandem axles)							
48			74,000	78,000	81,000	81,000	81,000	81,000
49			74,500	78,500	82,000	82,000	82,000	82,000
50			75,500	79,000	83,000	83,000	83,000	83,000
51			76,000	80,000	84,000	84,000	84,000	84,000
52			76,500	80,500	85,000	85,000	85,000	85,000
53			77,500	81,000	86,000	86,000	87,000	87,000
54			78,000	81,500	86,500	87,500	89,000	89,000
55			78,500	82,500	87,000	88,000	91,000	91,000
56			79,500	83,000	87,500	90,000	93,000	93,000
57			80,000	83,500	88,000	91,000	95,000	95,000
58				84,000	89,000	92,500	97,000	97,000
59				85,000	89,500	93,500	99,000	99,000
60				85,500	90,000	95,000	100,500	100,500
61				86,000	90,500	95,500	101,000	102,500
62				86,500	91,000	96,000	101,500	104,000
63				87,500	92,000	96,500	102,000	105,500
64				88,000	92,500	97,000	102,500	105,500
65				88,500	93,000	98,000	103,000	105,500
66				89,000	93,500	98,500	103,500	105,500
67				90,000	94,000	99,000	104,000	105,500
68				90,500	94,500	99,500	104,500	105,500
69				91,000	95,500	100,000	105,500	105,500
70				91,500	96,000	101,000	105,500	105,500

When inches are involved: Under six inches take lower, six inches or over take higher. The maximum load on any axle in any group of axles shall not exceed 1.2 times the load given in the above table divided by the number of axles in that group, and shall not exceed the single axle or tandem axle allowance as set forth elsewhere. For considering the number of axles in a group, the front axle of a unit supplying motive power need not be included in the axle group.

The maximum axle and gross weights specified in this section are subject to the braking requirements set up for the service brakes upon any motor vehicle or combination of vehicles as provided by law.

It is unlawful to operate upon the public highways any single unit vehicle, supported upon three axles or more with a gross weight including load in excess of forty thousand pounds or any combination of vehicles having a gross weight in excess of eighty thousand pounds without first obtaining an additional tonnage permit as provided for in RCW 46.44.095: *Provided*, That when a combination of vehicles has purchased license tonnage in excess of seventy-two thousand pounds as provided by RCW 46.16.070, such excess license tonnage may be

applied to the power unit subject to limitations of RCW 46.44.042 and this section when such vehicle is operated without a trailer.

It is unlawful to operate any vehicle upon the public highways equipped with two axles spaced less than seven feet apart, unless the two axles are so constructed and mounted in such a manner as to provide oscillation between the two axles and that either one of the two axles will not at any one time carry more than the maximum gross weight allowed for one axle specified in this section.

Notwithstanding anything contained herein, a vehicle or combination of vehicles in operation on January 4, 1975, may operate upon the public highways of this state, including the interstate system within the meaning of section 127 of Title 23, United States Code, with an overall gross weight upon a group of two consecutive sets of dual axles which was lawful in this state under the laws, regulations and procedures in effect in this state on January 4, 1975. [1977 c 81 § 2; 1975-'76 2nd ex.s. c 64 § 22.]

Effective dates—Severability—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

46.44.080 Local regulations—State highway regulations. Local authorities with respect to public highways under their jurisdiction may prohibit the operation thereon of motor trucks or other vehicles or may impose limits as to the weight thereof, or any other restrictions as may be deemed necessary, whenever any such public highway by reason of rain, snow, climatic or other conditions, will be seriously damaged or destroyed unless the operation of vehicles thereon be prohibited or restricted or the permissible weights thereof reduced: *Provided*, That whenever a highway has been closed generally to vehicles or specified classes of vehicles, local authorities shall by general rule or by special permit authorize the operation thereon of school buses, emergency vehicles, and motor trucks transporting perishable commodities or commodities necessary for the health and welfare of local residents under such weight and speed restrictions as the local authorities deem necessary to protect the highway from undue damage: *Provided further*, That the governing authorities of incorporated cities and towns shall not prohibit the use of any city street designated by the transportation commission as forming a part of the route of any primary state highway through any such incorporated city or town by vehicles or any class of vehicles or impose any restrictions or reductions in permissible weights unless such restriction, limitation, or prohibition, or reduction in permissible weights be first approved in writing by the department of transportation.

The local authorities imposing any such restrictions or limitations, or prohibiting any use or reducing the permissible weights shall do so by proper ordinance or resolution and shall erect or cause to be erected and maintained signs designating the provisions of the ordinance or resolution in each end of the portion of any public highway affected thereby, and no such ordinance or resolution shall be effective unless and until such signs are erected and maintained.

The department shall have the same authority as hereinabove granted to local authorities to prohibit or restrict the operation of vehicles upon state highways. The department shall give public notice of closure or restriction. The department may issue special permits for the operation of school buses and motor trucks transporting perishable commodities or commodities necessary for the health and welfare of local residents under specified weight and speed restrictions as may be necessary to protect any state highway from undue damage. [1977 1st ex.s. c 151 § 29; 1973 2nd ex.s. c 15 § 1; 1961 c 12 § 46.44.080. Prior: 1937 c 189 § 54; RRS § 6360-54.]

Federal requirements—Severability—1977 1st ex.s. c 151: See RCW 47.98.070 and 47.98.080.

46.44.090 Special permits for oversize or overweight movements. The department of transportation, pursuant to rules adopted by the transportation commission with respect to state highways and local authorities with respect to public highways under their jurisdiction may, upon application in writing and good cause being shown therefor, issue a special permit in writing authorizing the

applicant to operate or move a vehicle or combination of vehicles of a size, weight of vehicle, or load exceeding the maximum specified in this chapter or otherwise not in conformity with the provisions of this chapter upon any public highway under the jurisdiction of the authority granting such permit and for the maintenance of which such authority is responsible. [1977 1st ex.s. c 151 § 30; 1975-'76 2nd ex.s. c 64 § 13; 1961 c 12 § 46.44-.090. Prior: 1951 c 269 § 34; prior: 1949 c 221 § 3, part; 1947 c 200 § 7, part; 1945 c 177 § 1, part; 1937 c 189 § 55, part; Rem. Supp. 1949 § 6360-55, part.]

Federal requirements—Severability—1977 1st ex.s. c 151: See RCW 47.98.070 and 47.98.080.

Effective dates—Severability—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

46.44.091 Special permits for oversize or overweight movements—Gross weight limit. (1) Except as otherwise provided in subsections (3) and (4) of this section, no special permit shall be issued for movement on any state highway or route of a state highway within the limits of any city or town where the gross weight, including load, exceeds the following limits:

(a) Twenty-two thousand pounds on a single axle or on dual axles with a wheelbase between the first and second axles of less than three feet six inches;

(b) Forty-three thousand pounds on dual axles having a wheelbase between the first and second axles of not less than three feet six inches but less than seven feet;

(c) On any group of axles or in the case of a vehicle employing two single axles with a wheel base between the first and last axle of not less than seven feet but less than ten feet, a weight in pounds determined by multiplying six thousand five hundred times the distance in feet between the center of the first axle and the center of the last axle of the group;

(d) On any group of axles with a wheel base between the first and last axle of not less than ten feet but less than thirty feet, a weight in pounds determined by multiplying two thousand two hundred times the sum of twenty and the distance in feet between the center of the first axle and the center of the last axle of the group;

(e) On any group of axles with a wheel base between the first and last axle of thirty feet or greater, a weight in pounds determined by multiplying one thousand six hundred times the sum of forty and the distance in feet between the center of the first axle and the center of the last axle of the group.

(2) The total weight of a vehicle or combination of vehicles allowable by special permit under subsection (1) of this section shall be governed by the lesser of the weights obtained by using the total number of axles as a group or any combination of axles as a group.

(3) The weight limitations pertaining to single axles may be exceeded to permit the movement of equipment operating upon single pneumatic tires having a rim width of twenty inches or more and a rim diameter of twenty-four inches or more or dual pneumatic tires having a rim width of sixteen inches or more and a rim diameter of twenty-four inches or more and specially designed vehicles manufactured and certified for special permits prior to July 1, 1975.

(4) Permits may be issued for weights in excess of the limitations contained in subsection (1) of this section on highways or sections of highways which have been designed and constructed for weights in excess of such limitations, or for any shipment duly certified as necessary by military officials, or by officials of public or private power facilities, or when in the opinion of the department of transportation the movement or action is a necessary movement or action: *Provided*, That in the judgment of the department of transportation the structures and highway surfaces on the routes involved are capable of sustaining weights in excess of such limitations and it is not reasonable for economic or operational considerations to transport such excess weights by rail or water for any substantial distance of the total mileage applied for.

(5) Application shall be made in writing on special forms provided by the department of transportation and shall be submitted at least thirty-six hours in advance of the proposed movement. An application for a special permit for a gross weight of any combination of vehicles exceeding two hundred thousand pounds shall be submitted in writing to the department of transportation at least thirty days in advance of the proposed movement. [1977 1st ex.s. c 151 § 31; 1975-'76 2nd ex.s. c 64 § 14; 1975 1st ex.s. c 168 § 1; 1969 ex.s. c 281 § 30; 1961 c 12 § 46.44.091. Prior: 1959 c 319 § 28; 1953 c 254 § 12; 1951 c 269 § 35; prior: 1949 c 221 § 3, part; 1947 c 200 § 7, part; 1945 c 177 § 1, part; 1937 c 189 § 55, part; Rem. Supp. 1949 § 6360-55, part.]

Federal requirements—Severability—1977 1st ex.s. c 151: See RCW 47.98.070 and 47.98.080.

Effective dates—Severability—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

Effective date—1975 1st ex.s. c 168: "This 1973 [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 168 § 4.]

46.44.092 Special permits for oversize or overweight movements—Overall width limits—Application for permit. No special permit shall be issued for movement on any two lane state highway outside the limits of any city or town where the overall width of load exceeds fourteen feet, or on any multiple lane state highway where the overall width of load exceeds thirty-two feet; except that on multiple lane state highways where a physical barrier serving as a median divider separates the oncoming and opposing traffic lanes, no special permit shall be issued for width in excess of twenty feet: *Provided*, That (1) in the case of buildings, the limitations referred to in this section for movement on any two lane state highway other than the national system of interstate and defense highways may be exceeded under the following conditions: (a) Controlled vehicular traffic shall be maintained in one direction at all times; (b) maximum distance of movement shall not exceed five miles; additional contiguous permits shall not be issued to exceed the five-mile limit: *Provided*, That when the department of transportation, pursuant to general rules adopted by the transportation commission, determines a hardship would result, this limitation may be exceeded

upon approval of the department of transportation; (c) prior to issuing a permit a qualified transportation department employee shall make a visual inspection of the building and route involved determining that the conditions listed herein shall be complied with and that structures or overhead obstructions may be cleared or moved in order to maintain a constant and uninterrupted movement of the building; (d) special escort or other precautions may be imposed to assure movement is made under the safest possible conditions, and the Washington state patrol shall be advised when and where the movement is to be made; (2) permits may be issued for widths of vehicles in excess of the preceding limitations on highways or sections of highways which have been designed and constructed for width in excess of such limitations; (3) these limitations may be rescinded when certification is made by military officials, or by officials of public or private power facilities, or when in the opinion of the department of transportation the movement or action is a necessary movement or action: *Provided further*, That in the judgment of the department of transportation the structures and highway surfaces on the routes involved are capable of sustaining widths in excess of such limitation; (4) these limitations shall not apply to movement during daylight hours on any two lane state highway where the gross weight, including load, does not exceed forty-five thousand pounds and the overall width of load does not exceed sixteen feet: *Provided*, That the minimum and maximum speed of such movements, prescribed routes of such movements, the times of such movements, limitation upon frequency of trips (which limitation shall be not less than one per week), and conditions to assure safety of traffic may be prescribed by the department of transportation or local authority issuing such special permit.

The applicant for any special permit shall specifically describe the vehicle or vehicles and load to be operated or moved and the particular state highways for which permit to operate is requested and whether such permit is requested for a single trip or for continuous operation. [1977 1st ex.s. c 151 § 32; 1975-'76 2nd ex.s. c 64 § 15; 1970 ex.s. c 9 § 1; 1969 ex.s. c 281 § 60; 1965 ex.s. c 170 § 39; 1963 ex.s. c 3 § 54; 1961 c 12 § 46.44.092. Prior: 1959 c 319 § 29; 1955 c 146 § 2; 1951 c 269 § 36; prior: 1949 c 221 § 3, part; 1947 c 200 § 7, part; 1945 c 177 § 1, part; 1937 c 189 § 55, part; Rem. Supp. 1949 § 6360-55, part.]

Federal requirements—Severability—1977 1st ex.s. c 151: See RCW 47.98.070 and 47.98.080.

Effective dates—Severability—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

46.44.095 Annual additional tonnage permits—Fees. Until December 31, 1976, a combination of vehicles lawfully licensed to a total gross weight of seventy-two thousand pounds, and a three or more axle single unit vehicle lawfully licensed to a total gross weight of forty thousand pounds, and on January 1, 1977, and thereafter, when a combination of vehicles has been lawfully licensed to a total gross weight of eighty thousand pounds and when a three or more axle single unit vehicle has been lawfully licensed to a total gross weight

of forty thousand pounds pursuant to provisions of RCW 46.44.041, a permit for additional gross weight may be issued by the department of transportation upon the payment of thirty-seven dollars and fifty cents per year for each one thousand pounds or fraction thereof of such additional gross weight: *Provided*, That the tire limits specified in RCW 46.44.042 shall apply, and the gross weight on any single axle shall not exceed twenty thousand pounds, and the gross load on any group of axles shall not exceed the limits set forth in RCW 46.44.041: *Provided further*, That an additional two thousand pounds may be purchased for an amount not to exceed thirty dollars per thousand for the rear axle of a two-axle garbage truck. Such additional weight shall not be valid or permitted on any part of the federal interstate highway system where the maximum single axle load shall not exceed twenty thousand pounds.

The annual additional tonnage permits provided for in this section shall be issued upon such terms and conditions as may be prescribed by the department pursuant to general rules adopted by the transportation commission. Such permits shall entitle the permittee to carry such additional load in such an amount and upon such highways or sections of highways as may be determined by the department of transportation to be capable of withstanding such increased gross load without undue injury to the highway: *Provided*, That the permits shall not be valid on any highway where the use of such permits would deprive this state of federal funds for highway purposes.

The annual additional tonnage permits provided for in this section shall commence on the first of January of each year. The permits may be purchased at any time, and if they are purchased for less than a full year, the fee shall be one-twelfth of the full fee multiplied by the number of months, including any fraction thereof, covered by the permit. When the department issues a duplicate permit to replace a lost or destroyed permit and where the department transfers a permit from one vehicle to another a fee of five dollars shall be charged for each such duplicate issued or each such transfer. The department of transportation shall issue such permits on a temporary basis for periods not less than five days at one dollar per day for each two thousands pounds or fraction thereof.

The fees levied in RCW 46.44.0941 and this section shall not apply to any vehicles owned and operated by the state of Washington, any county within the state or any city or town or metropolitan municipal corporation within the state, or by the federal government.

In the case of fleets prorating license fees under the provisions of chapter 46.85 RCW the fees provided for in this section shall be computed by the department of transportation by applying the proportion of the Washington mileage of the fleet in question to the total mileage of the fleet as reported pursuant to chapter 46.85 RCW to the fees that would be required to purchase the additional weight allowance for all eligible vehicles or combinations of vehicles for which the extra weight allowance is requested.

The department of transportation shall prorate the fees provided in this section only if the name of the

operator or owner is submitted on official listings of authorized fleet operators furnished by the department of motor vehicles. Listings furnished shall also include the percentage of mileage operated in Washington which shall be the same percentage as determined by the department of motor vehicles, for purposes of prorating license fees. [1977 1st ex.s. c 151 § 33; 1975-'76 2nd ex.s. c 64 § 17; 1974 ex.s. c 76 § 1; 1973 1st ex.s. c 150 § 3; 1969 ex.s. c 281 § 55; 1967 ex.s. c 94 § 15; 1967 c 32 § 51; 1965 ex.s. c 170 § 38; 1961 ex.s. c 7 § 15; 1961 c 12 § 46.44.095. Prior: 1959 c 319 § 31; 1957 c 273 § 18; 1955 c 185 § 1; 1953 c 254 § 13; 1951 c 269 § 39; prior: 1949 c 221 § 3, part; 1947 c 200 § 7, part; 1945 c 177 § 1, part; 1937 c 189 § 55, part; Rem. Supp. 1949 § 6360-55, part.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Federal requirements—Severability—1977 1st ex.s. c 151: See RCW 47.98.070 and 47.98.080.

Effective dates—Severability—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

Single cab card in lieu of special weight permit: RCW 46.86.040.

46.44.170 Mobile home movement special permit—County treasurer certification of taxes paid—Vehicle license plates—Rules. (1) Any person moving a mobile home as defined in RCW 46.04.302 upon public highways of the state must obtain a special permit from the highway commission and local authorities pursuant to RCW 46.44.090 and 46.44.093 and shall pay the proper fee as prescribed by RCW 46.44.0941 and 46.44.096.

(2) A special permit issued as provided in subsection (1) of this section for the movement of any mobile home shall not be valid until the county treasurer of the county in which the mobile home is located shall endorse or attach thereto his certificate that all property taxes due upon the mobile home being moved have been satisfied: *Provided*, That endorsement or certification by the county treasurer is not required when a mobile home is to enter the state or is being moved from a manufacturer or distributor to a retail sales outlet or directly to the purchaser's designated location or between retail and sales outlets. It shall be the responsibility of the owner of the mobile home or his agent to obtain such endorsement from the county treasurer.

(3) Nothing herein should be construed as prohibiting the issuance of vehicle license plates for a mobile home, but no such plates shall be issued unless the mobile home for which such plates are sought has been listed for property tax purposes in the county in which it is principally located and the appropriate fee for such license has been paid.

(4) The state highway commission and local authorities are authorized to adopt reasonable rules for implementing the provisions of this section. [1977 1st ex.s. c 22 § 2.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "state highway commission" means department of transportation; see RCW 47.04.015.

Severability—1977 1st ex.s. c 22: See note following RCW 46.04.302.

46.44.173 Notice to treasurer and assessor of county where mobile home to be located. (1) Upon validation of a special permit as provided in RCW 46.44.170, the county treasurer shall forward notice of movement of the mobile home to the treasurer's own county assessor and to the county assessor of the county in which the mobile home will be located.

(2) When a single trip special permit not requiring tax certification is issued, the highway commission or local authority shall notify the assessor of the county in which the mobile home is to be located and when a continuous trip special permit is used to transport a mobile home not requiring tax certification, the transporter shall notify the assessor of the county in which the mobile home is to be located: *Provided*, That notification shall not be necessary when the destination of a mobile home is a manufacturer, distributor, retailer, or location outside the state.

(3) A notification under this section shall state the specific, residential destination of the mobile home. [1977 1st ex.s. c 22 § 3.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "highway commission" means department of transportation; see RCW 47.04.015.

Severability—1977 1st ex.s. c 22: See note following RCW 46.04.302.

46.44.175 Penalties—Hearing. Any person or agent acting for a person who causes to be moved or moves a mobile home as defined in RCW 46.04.302 upon public highways of this state and who fails to comply with any of the provisions of RCW 46.44.170 and 46.44.173 is guilty of a misdemeanor and shall be fined not less than fifty dollars or more than one hundred dollars. In addition to the above fine, the highway commission or local authority may withhold issuance of a special permit or suspend a continuous special permit as provided by RCW 46.44.090 and 46.44.093 for a period of not less than thirty days.

Any person or agent who is denied a special permit or whose special permit is suspended may upon request receive a hearing before the highway commission or local authority having jurisdiction. The commission or local authority after such hearing may revise its previous action. [1977 1st ex.s. c 22 § 4.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "highway commission" means department of transportation; see RCW 47.04.015.

Severability—1977 1st ex.s. c 22: See note following RCW 46.04.302.

Chapter 46.52

ACCIDENTS—REPORTS—ABANDONED VEHICLES

Sections

- 46.52.030 Accident reports (as amended by 1977 1st ex.s. c 68).
- 46.52.030 Accident reports (as amended by 1977 1st ex.s. c 369).

- 46.52.060 Tabulation and analysis of reports—Availability for use.
- 46.52.065 Coroners to submit blood samples to state toxicologist—Analysis—Availability of reports—Admissibility in court action.
- 46.52.120 Case record of convictions—Cross reference to accident reports.
- 46.52.130 Appropriate part of abstract of driving record to be furnished to individual, insurance company, employer—Confidentiality—Fees—Penalty.

46.52.030 Accident reports (as amended by 1977 1st ex.s. c 68). The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to the property of any one person to an apparent extent of one hundred dollars or more, shall, within twenty-four hours after such accident, make a written report of such accident to the chief of police of the city or town if such accident occurred within an incorporated city or town or the county sheriff or state patrol if such accident occurred outside incorporated cities and towns, the original of such report to be immediately forwarded by the authority receiving such report to the chief of the Washington state patrol at Olympia, Washington, and the second copy of such report to be forwarded to the department of motor vehicles at Olympia, Washington. The chief of the Washington state patrol may require any driver of any vehicle involved in an accident, of which report must be made as provided in this section, to file supplemental reports whenever the original report in his opinion is insufficient and may likewise require witnesses of any such accident to render reports. For this purpose, the chief of the Washington state patrol shall prepare and, upon request, supply to any police department, coroner, sheriff and any other suitable agency or individual, sample forms of accident reports required hereunder, which reports shall be upon a form devised by the chief of the Washington state patrol and shall call for sufficiently detailed information to disclose all material facts with reference to the accident to be reported thereon, including the location, the cause, the conditions then existing, and the persons and vehicles involved, personal injury or death, if any, the amounts of property damage claimed, the total number of vehicles involved, whether the vehicles were legally parked, legally standing, or moving, and whether such vehicles were occupied at the time of the accident. Every required accident report shall be made on a form prescribed by the chief of the Washington state patrol and each authority charged with the duty of receiving such reports shall provide sufficient report forms in compliance with the form devised. The report forms shall be designated so as to provide that a copy may be retained by the reporting person. [1977 1st ex.s. c 68 § 1; 1969 ex.s. c 40 § 2; 1967 c 32 § 54; 1965 ex.s. c 119 § 1; 1961 c 12 § 46.52.030. Prior: 1943 c 154 § 1; 1937 c 189 § 135; RRS § 6360-135.]

46.52.030 Accident reports (as amended by 1977 1st ex.s. c 369). The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to the property of any one person to an apparent extent of three hundred dollars or more, shall, within twenty-four hours after such accident, make a written report of such accident to the chief of police of the city or town if such accident occurred within an incorporated city or town or the county sheriff or state patrol if such accident occurred outside incorporated cities and towns, the original of such report shall be immediately forwarded by the authority receiving such report to the chief of the Washington state patrol at Olympia, Washington, and the second copy of such report to be forwarded to the department of motor vehicles at Olympia, Washington. The chief of the Washington state patrol may require any driver of any vehicle involved in an accident, of which report must be made as provided in this section, to file supplemental reports whenever the original report in his opinion is insufficient and may likewise require witnesses of any such accident to render reports. For this purpose, the chief of the Washington state patrol shall prepare and, upon request, supply to any police department, coroner, sheriff, and any other suitable agency or individual, sample forms of accident reports required hereunder, which reports shall be upon a form devised by the chief of the Washington state patrol and shall call for sufficiently detailed information to disclose all material facts with reference to the accident to be reported thereon, including the location, the cause, the conditions then existing, and the persons and vehicles involved, personal injury or death, if any, the amounts of property damage claimed, the total number of vehicles involved, whether the vehicles were legally parked or moving, and whether such vehicles were occupied at the time

of the accident. Every required accident report shall be made on a form prescribed by the chief of the Washington state patrol and each authority charged with the duty of receiving such reports shall provide sufficient report forms in compliance with the form devised. The report forms shall be designated so as to provide that a copy may be retained by the reporting person. [1977 1st ex.s. c 369 § 2; 1969 ex.s. c 40 § 2; 1967 c 32 § 54; 1965 ex.s. c 119 § 1; 1961 c 12 § 46.52.030. Prior: 1943 c 154 § 1; 1937 c 189 § 135; RRS § 6360-135.]

Reviser's note: RCW 46.52.030 was amended twice during the 1977 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334: See RCW 46.01.020.

46.52.060 Tabulation and analysis of reports—

Availability for use. It shall be the duty of the chief of the Washington state patrol to file, tabulate, and analyze all accident reports and to publish annually, immediately following the close of each fiscal year, and monthly during the course of the year, statistical information based thereon showing the number of accidents, the location, the frequency and circumstances thereof and other statistical information which may prove of assistance in determining the cause of vehicular accidents.

Such accident reports and analysis or reports thereof shall be available to the director of motor vehicles, the highway commission, the utilities and transportation commission, or their duly authorized representatives, for further tabulation and analysis for pertinent data relating to the regulation of highway traffic, highway construction, vehicle operators and all other purposes, and to publish information so derived as may be deemed of publication value. [1977 c 75 § 67; 1967 c 32 § 56; 1961 c 12 § 46.52.060. Prior: 1937 c 189 § 138; RRS § 6360-138.]

Reviser's note: (1) The "director of motor vehicles" redesignated the "director of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

(2) Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "highway commission" means department of transportation; see RCW 47.04.015.

46.52.065 Coroners to submit blood samples to state toxicologist—Analysis—Availability of reports—

Admissibility in court action. Every coroner or other official performing like functions shall submit to the state toxicologist a blood sample taken from all drivers and all pedestrians who are killed in any traffic accident where the death occurred within four hours after the accident. Blood samples shall be taken and submitted in the manner prescribed by the state toxicologist. The state toxicologist shall analyze these blood samples to determine the concentration of alcohol and, where feasible, the presence of drugs or other toxic substances. The reports and records of the state toxicologist relating to analyses made pursuant to this section shall be confidential: *Provided*, That the results of these analyses shall be reported to the state patrol and made available to the prosecuting attorney or law enforcement agency having jurisdiction: *Provided further*, That the results of these analyses may be admitted in evidence in any civil or

criminal action where relevant and shall be made available to the parties to any such litigation on application to the court. [1977 1st ex.s. c 50 § 1; 1971 ex.s. c 270 § 1.]

46.52.120 Case record of convictions—Cross reference to accident reports. It shall be the duty of the director to keep a case record on every motor vehicle driver licensed under the laws of this state, together with information on each, showing all the convictions certified by the courts and an index cross reference record of each accident reported relating to such individuals with a brief statement of the cause of such accident, which index cross reference record shall be furnished to the director by the chief of the Washington state patrol, with reference to each driver involved in the reported accidents. The case record shall be maintained in two parts. One part shall be the employment driving record of the person which shall include all motor vehicle accidents in which the person is involved while the person is driving a commercial motor vehicle as an employee of another and all convictions of the person for violation of the motor vehicle laws while the person is driving a commercial motor vehicle as an employee of another. The other part shall include all other accidents and convictions. Such records shall be for the confidential use of the director and the chief of the Washington state patrol and for such police officers or other cognizant public officials as may be designated by law. Such case records shall not be offered as evidence in any court except in case appeal is taken from the order of director, suspending, revoking, canceling, or refusing vehicle driver's license. It shall be the duty of the director to tabulate and analyze vehicle driver's case records and to suspend, revoke, cancel, or refuse any vehicle driver's license to any person when it is deemed from facts contained in the case record of such person that it is for the best interest of public safety that such person be denied the privilege of operating a motor vehicle. Whenever the director may order the vehicle driver's license of any such person suspended, revoked, or canceled, or shall refuse the issuance of vehicle driver's license, such suspension, revocation, cancellation, or refusal shall be final and effective unless appeal from the decision of the director shall be taken as provided by law. [1977 1st ex.s. c 356 § 1; 1967 c 32 § 62; 1961 c 12 § 46.52.120. Prior: 1937 c 189 § 144; RRS § 6360-144.]

46.52.130 Appropriate part of abstract of driving record to be furnished to individual, insurance company, employer—Confidentiality—Fees—Penalty. Any request for a certified abstract must specify which part is requested, and only the part requested shall be furnished. The employment driving record part shall be furnished only to the individual named in the abstract, an employer, the insurance carrier that has insurance in effect covering such employer, or a prospective employer. The other part shall be furnished only to the individual named in the abstract, the insurance carrier that has insurance in effect covering such named individual, or the insurance carrier to which such named individual has applied. The director, upon proper

request, shall furnish a certified abstract covering the period of not more than three years last past, and such abstract whenever possible, shall include an enumeration of motor vehicle accidents in which such person was involved; the total number of vehicles involved; whether the vehicles were legally parked or moving; whether such vehicles were occupied at the time of the accident; and any reported convictions or forfeitures of bail of such person upon a charge of violating any motor vehicle law. Such enumeration shall include any reports of failure to appear in response to a traffic citation served upon such person by an arresting officer.

The abstract herein provided to an insurance company shall have excluded therefrom any information pertaining to any occupational driver's license when the same is issued to any person employed by another or self-employed as a motor vehicle driver who during the five years preceding the request has been issued such a license by reason of a conviction of a motor vehicle offense outside the scope of his principal employment, and who has during such period been principally employed as a motor vehicle driver deriving the major portion of his income therefrom. The abstract provided to the insurance company shall also exclude any information pertaining to law enforcement officers or fire fighters as defined in RCW 41.26.030, or any member of the Washington state patrol, while driving official vehicles in the performance of occupational duty during an emergency situation if the chief of the officer's or fire fighter's department certifies on the accident report that the actions of the officer or fire fighter were reasonable under the circumstances as they existed at the time of the accident.

The director shall collect for each such abstract the sum of one dollar fifty cents which shall be deposited in the highway safety fund.

Any insurance company or its agent receiving such certified abstract shall use it exclusively for its own underwriting purposes and shall not divulge any of the information therein contained to a third party: *Provided*, That no policy of insurance shall be canceled on the basis of such information unless the policyholder was determined to be at fault: *Provided further*, That no insurance company or its agent for underwriting purposes relating to the operation of commercial motor vehicles shall use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment.

Any employer or prospective employer receiving such certified abstract shall use it exclusively for his own purpose to determine whether the licensee should be permitted to operate a commercial vehicle or school bus upon the public highways of this state and shall not divulge any information therein contained to a third party.

Any violation of this section shall be a gross misdemeanor. [1977 1st ex.s. c 356 § 2; 1977 1st ex.s. c 140 § 1; 1973 1st ex.s. c 37 § 1; 1969 ex.s. c 40 § 3; 1967 c 174 § 2; 1967 c 32 § 63; 1963 c 169 § 65; 1961 ex.s. c 21 § 27.]

Abstract of driving record to be furnished: RCW 46.29.050.

Use of highway safety fund to defray cost of furnishing and maintaining driving records: RCW 46.68.060.

**Chapter 46.61
RULES OF THE ROAD**

Sections

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46.61.350 Certain vehicles must stop at all railroad grade crossings—Exceptions.

SPEED RESTRICTIONS

- 46.61.405 Decreases by secretary of transportation.
- 46.61.410 Increases by secretary of transportation—Maximum speed limit for trucks—Auto stages—Signs and notices.
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- 46.61.560 Stopping, standing, or parking outside of business or residence districts.
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- 46.61.575 Additional parking regulations.
- 46.61.587 Winter recreational parking areas—Penalty—Permit to be issued upon payment of fine.

MISCELLANEOUS RULES

- 46.61.670 Driving with wheels off roadway.

SPECIAL STOPS REQUIRED

46.61.350 Certain vehicles must stop at all railroad grade crossings—Exceptions. (1) The driver of any motor vehicle carrying passengers for hire, other than a passenger car, or of any school bus or private carrier bus carrying any school child or other passenger, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty feet but not less than fifteen feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely.

After stopping as required herein and upon proceeding when it is safe to do so the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing, and the driver shall not shift gears while crossing the track or tracks.

(2) This section shall not apply at:

(a) Any railroad grade crossing at which traffic is controlled by a police officer or a duly authorized flagman;

(b) Any railroad grade crossing at which traffic is regulated by a traffic control signal;

(c) Any railroad grade crossing protected by crossing gates or an alternately flashing light signal intended to give warning of the approach of a railroad train;

(d) Any railroad grade crossing at which an official traffic control device as designated by the utilities and transportation commission pursuant to RCW 81.53.060 gives notice that the stopping requirement imposed by this section does not apply. [1977 c 78 § 1; 1975 c 62 § 31; 1970 ex.s. c 100 § 7; 1965 ex.s. c 155 § 48.]

Severability—1975 c 62: See note following RCW 36.75.010.

SPEED RESTRICTIONS

46.61.405 Decreases by secretary of transportation.

Whenever the secretary of transportation shall determine upon the basis of an engineering and traffic investigation that any maximum speed hereinbefore set forth is greater than is reasonable or safe with respect to a state highway under the conditions found to exist at any intersection or upon any other part of the state highway system or at state ferry terminals, or that a general reduction of any maximum speed hereinbefore set forth would aid in the conservation of energy resources, the secretary may determine and declare a reasonable and safe lower maximum limit or a lower maximum limit which will reasonably conserve energy resources, for any state highway, the entire state highway system, or any portion thereof, which shall be effective when appropriate signs giving notice thereof are erected. The secretary may also fix and regulate the speed of vehicles on any state highway within the maximum speed limit allowed by this chapter for special occasions including, but not limited to, local parades and other special events. Any such maximum speed limit may be declared to be effective at all times or at such times as are indicated upon the said signs; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective (a) when posted upon appropriate fixed or variable signs or (b) if a maximum limit is established for auto stages which is lower than the limit for automobiles, the auto stage speed limit shall become effective thirty days after written notice thereof is mailed in the manner provided in subsection (4) of RCW 46.61.410, as now or hereafter amended. [1977 1st ex.s. c 151 § 34; 1974 ex.s. c 103 § 1; 1970 ex.s. c 100 § 2; 1967 c 25 § 1; 1963 c 16 § 2. Formerly RCW 46.48.012.]

Federal requirements—Severability—1977 1st ex.s. c 151: See RCW 47.98.070 and 47.98.080.

46.61.410 Increases by secretary of transportation—Maximum speed limit for trucks—Auto stages—Signs and notices. (1) Subject to subsection (2) below the secretary may increase the maximum speed limit on any highway or portion thereof to not more than seventy miles per hour in accordance with the design speed thereof (taking into account all safety elements included therein), or whenever the secretary determines upon the basis of an engineering and traffic investigation that such greater speed is reasonable and safe under the circumstances existing on such part of the highway. The greater maximum limit so determined shall be effective, when appropriate signs giving notice thereof are erected, or if a maximum limit is established for auto stages which is lower than the limit for automobiles, the auto stage speed limit shall become effective thirty days after written notice thereof is mailed in the manner provided in subsection (4) of this section.

Such maximum speed limit may be declared to be effective at all times or at such times as are indicated upon said signs or in the case of auto stages, as indicated in said written notice; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate fixed or variable signs or if a maximum limit is established for auto stages which is lower than the limit for automobiles, the auto stage speed limit shall become effective thirty days after written notice thereof is mailed in the manner provided in subsection (4) of this section.

(2) The maximum speed limit for vehicles over ten thousand pounds gross weight and vehicles in combination except auto stages shall not exceed sixty miles per hour and may be established at a lower limit by the secretary as provided in RCW 46.61.405, as now or hereafter amended.

(3) The word "trucks" used by the department on signs giving notice of maximum speed limits shall mean vehicles over ten thousand pounds gross weight and all vehicles in combination except auto stages.

(4) Whenever the secretary shall establish maximum speed limits for auto stages lower than the maximum limits for automobiles, the secretary shall cause to be mailed notice thereof to each auto transportation company holding a certificate of public convenience and necessity issued by the Washington utilities and transportation commission. The notice shall be mailed to the chief place of business within the state of Washington of each auto transportation company or if none then its chief place of business without the state of Washington. [1977 1st ex.s. c 151 § 35; 1974 ex.s. c 103 § 2; 1970 ex.s. c 100 § 1; 1969 ex.s. c 12 § 1; 1965 ex.s. c 155 § 55; 1963 c 16 § 3. Formerly RCW 46.48.013.]

Federal requirements—Severability—1977 1st ex.s. c 151: See RCW 47.98.070 and 47.98.080.

46.61.415 When local authorities may alter maximum limits. (1) Whenever local authorities in their

respective jurisdictions determine on the basis of an engineering and traffic investigation that the maximum speed permitted under RCW 46.61.400 or 46.61.440 is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit thereon which

- (a) Decreases the limit at intersections; or
- (b) Increases the limit but not to more than sixty miles per hour; or
- (c) Decreases the limit but not to less than twenty miles per hour.

(2) Local authorities in their respective jurisdictions shall determine by an engineering and traffic investigation the proper maximum speed for all arterial streets and shall declare a reasonable and safe maximum limit thereon which may be greater or less than the maximum speed permitted under RCW 46.61.400(2) but shall not exceed sixty miles per hour.

(3) The secretary of transportation is authorized to establish speed limits on county roads and city and town streets as shall be necessary to conform with any federal requirements which are a prescribed condition for the allocation of federal funds to the state.

(4) Any altered limit established as hereinbefore authorized shall be effective when appropriate signs giving notice thereof are erected. Such maximum speed limit may be declared to be effective at all times or at such times as are indicated upon such signs; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate fixed or variable signs.

(5) Any alteration of maximum limits on state highways within incorporated cities or towns by local authorities shall not be effective until such alteration has been approved by the secretary of transportation. [1977 1st ex.s. c 151 § 36; 1974 ex.s. c 103 § 3; 1963 c 16 § 4. Formerly RCW 46.48.014.]

Federal requirements—Severability—1977 1st ex.s. c 151: See RCW 47.98.070 and 47.98.080.

46.61.425 Minimum speed regulation—Passing slow moving vehicle. (1) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law: *Provided*, That a person following a vehicle driving at less than the legal maximum speed and desiring to pass such vehicle may exceed the speed limit, subject to the provisions of RCW 46.61.120 on highways having only one lane of traffic in each direction, at only such a speed and for only such a distance as is necessary to complete the pass with a reasonable margin of safety.

(2) Whenever the secretary of transportation or local authorities within their respective jurisdictions determine on the basis of an engineering and traffic investigation that slow speeds on any part of a highway unreasonably impede the normal movement of traffic, the secretary or such local authority may determine and declare a minimum speed limit thereat which shall be effective when

appropriate signs giving notice thereof are erected. No person shall drive a vehicle slower than such minimum speed limit except when necessary for safe operation or in compliance with law. [1977 1st ex.s. c 151 § 37; 1969 c 135 § 1; 1967 c 25 § 2; 1963 c 16 § 6. Formerly RCW 46.48.015.]

Federal requirements—Severability—1977 1st ex.s. c 151: See RCW 47.98.070 and 47.98.080.

46.61.428 Slow moving vehicle permitted to drive on improved shoulders, when. (1) The state highway commission and local authorities are authorized to determine those portions of any two-lane highways under their respective jurisdictions on which drivers of slow moving vehicles may safely drive onto improved shoulders for the purpose of allowing overtaking vehicles to pass and may by appropriate signs indicate the beginning and end of such zones.

(2) Where signs are in place to define a driving-on-shoulder zone as set forth in subsection (1) of this section, the driver of a slow moving vehicle may drive onto and along the shoulder within the zone but only for the purpose of allowing overtaking vehicles to pass and then shall return to the roadway.

(3) Signs erected to define a driving-on-shoulder zone shall take precedence over pavement markings for the purpose of allowing the movements described in subsection (2) of this section. [1977 1st ex.s. c 39 § 1.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "state highway commission" means department of transportation; see RCW 47.04.015.

46.61.430 Authority of secretary of transportation to fix speed limits on limited access facilities exclusive—Local regulations. Notwithstanding any law to the contrary or inconsistent herewith, the secretary of transportation shall have the power and the duty to fix and regulate the speed of vehicles within the maximum speed limit allowed by law for state highways, designated as limited access facilities, regardless of whether a portion of said highway is within the corporate limits of a city or town. No governing body or authority of such city or town or other political subdivision may have the power to pass or enforce any ordinance, rule, or regulation requiring a different rate of speed, and all such ordinances, rules, and regulations contrary to or inconsistent therewith now in force are void and of no effect. [1977 1st ex.s. c 151 § 38; 1974 ex.s. c 103 § 4; 1961 c 12 § 46.48.041. Prior: 1955 c 177 § 5. Formerly RCW 46.48.041.]

Federal requirements—Severability—1977 1st ex.s. c 151: See RCW 47.98.070 and 47.98.080.

46.61.450 Maximum speed, weight, or size in traversing bridges, elevated structures, tunnels, underpasses—Posting limits. It shall be unlawful for any person to operate a vehicle or any combination of vehicles over any bridge or other elevated structure or through any tunnel or underpass constituting a part of any public highway at a rate of speed or with a gross weight or of a size which is greater at any time than the

maximum speed or maximum weight or size which can be maintained or carried with safety over any such bridge or structure or through any such tunnel or underpass when such bridge, structure, tunnel, or underpass is sign posted as hereinafter provided. The secretary of transportation, if it be a bridge, structure, tunnel, or underpass upon a state highway, or the governing body or authorities of any county, city, or town, if it be upon roads or streets under their jurisdiction, may restrict the speed which may be maintained or the gross weight or size which may be operated upon or over any such bridge or elevated structure or through any such tunnel or underpass with safety thereto. The secretary or the governing body or authorities of any county, city, or town having jurisdiction shall determine and declare the maximum speed or maximum gross weight or size which such bridge, elevated structure, tunnel, or underpass can withstand or accommodate and shall cause suitable signs stating such maximum speed or maximum gross weight, or size, or either, to be erected and maintained on the right hand side of such highway, road, or street and at a distance of not less than one hundred feet from each end of such bridge, structure, tunnel, or underpass and on the approach thereto: *Provided*, That in the event that any such bridge, elevated structure, tunnel, or underpass is upon a city street designated by the transportation commission as forming a part of the route of any state highway through any such incorporated city or town the determination of any maximum speed or maximum gross weight or size which such bridge, elevated structure, tunnel, or underpass can withstand or accommodate shall not be enforceable at any speed, weight, or size less than the maximum allowed by law, unless with the approval in writing of the secretary. Upon the trial of any person charged with a violation of this section, proof of either violation of maximum speed or maximum weight, or size, or either, and the distance and location of such signs as are required, shall constitute conclusive evidence of the maximum speed or maximum weight, or size, or either, which can be maintained or carried with safety over such bridge or elevated structure or through such tunnel or underpass. [1977 1st ex.s. c 151 § 39; 1961 c 12 § 46.48.080. Prior: 1937 c 189 § 70; RRS § 6360-70. Formerly RCW 46.48.080.]

Federal requirements—Severability—1977 1st ex.s. c 151: See RCW 47.98.070 and 47.98.080.

RECKLESS DRIVING, DRIVING WHILE INTOXICATED AND NEGLIGENT HOMICIDE BY VEHICLE

46.61.508 Liability of medical personnel withdrawing blood. No physician, registered nurse, qualified technician, or hospital, or duly licensed clinical laboratory employing or utilizing services of such physician, registered nurse, or qualified technician, shall incur any civil or criminal liability as a result of the act of withdrawing blood from any person when directed by a law enforcement officer to do so for the purpose of a blood test under the provisions of RCW 46.20.308, as now or

hereafter amended: *Provided*, That nothing in this section shall relieve any physician, registered nurse, qualified technician, or hospital or duly licensed clinical laboratory from civil liability arising from the use of improper procedures or failing to exercise the required standard of care. [1977 1st ex.s. c 143 § 1.]

46.61.515 Driving while under the influence of intoxicating liquor or drugs—Penalties—Penalty assessments in addition to fines, etc.—Suspension or revocation of license—Appeal. (1) Every person who is convicted of a violation of (a) driving a motor vehicle while under the influence of intoxicating liquor or (b) driving a motor vehicle while under the influence of a drug to a degree which renders the driver incapable of safely driving a motor vehicle shall be punished by imprisonment for not less than five days nor more than one year, and by a fine of not less than fifty dollars nor more than five hundred dollars.

On a second or subsequent conviction of either offense within a five year period he shall be punished by imprisonment for not less than thirty days nor more than one year and by a fine not less than one hundred dollars nor more than one thousand dollars, and neither the jail sentence nor the fine shall be suspended: *Provided*, That the court may, for a defendant who has not previously had a jail sentence suspended on such second or subsequent conviction, suspend such sentence and/or fine only on the condition that the defendant participate in and successfully complete a court approved alcohol treatment program: *Provided, further*, That the suspension shall be set aside upon the failure of the defendant to provide proof of successful completion of said treatment program within a time certain to be established by the court. If such person at the time of a second or subsequent conviction is without a license or permit because of a previous suspension or revocation, the minimum mandatory sentence shall be ninety days in jail and a two hundred dollar fine. The penalty so imposed shall not be suspended.

(2) There shall be levied and paid into the highway safety fund of the state treasury a penalty assessment in the minimum amount of twenty-five percent of, and which shall be in addition to, any fine, bail forfeiture, or costs on all offenses involving a violation of any state statute or city or county ordinance relating to driving a motor vehicle while under the influence of intoxicating liquor or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor: *Provided*, That all funds derived from such penalty assessment shall be in addition to and exclusive of assessments made under RCW 46.81.030 and shall be for the exclusive use of the department for driver services programs and for a state-wide alcohol safety action program, or other similar programs designed primarily for the rehabilitation or control of traffic offenders. Such penalty assessment shall be included in any bail schedule and shall be included by the court in any pronouncement of sentence.

(3) Notwithstanding the provisions contained in chapters 3.16, 3.46, 3.50, 3.62, or 35.20 RCW, or any other section of law, the penalty assessment provided for in

subsection (2) of this section shall not be suspended, waived, modified, or deferred in any respect, and all moneys derived from such penalty assessments shall be forwarded to the highway safety fund to be used exclusively for the purposes set forth in subsection (2) of this section.

(4) The license or permit to drive or any nonresident privilege of any person convicted of either of the offenses named in subsection (1) above shall:

(a) On the first conviction under either such offense, be suspended by the department for not less than thirty days: *Provided*, That the court may recommend that no suspension action be taken;

(b) On a second conviction under either such offense within a five year period, be suspended by the department for not less than sixty days after the termination of such person's jail sentence;

(c) On a third or subsequent conviction under either such offense within a five year period, be revoked by the department.

(5) In any case provided for in this section, where a driver's license is to be revoked or suspended, such revocation or suspension shall be stayed and shall not take effect until after the determination of any appeal from the conviction which may lawfully be taken, but in case such conviction is sustained on appeal such revocation or suspension shall take effect as of the date that the conviction becomes effective for other purposes. [1977 1st ex.s. c 3 § 3; 1975 1st ex.s. c 287 § 2; 1974 ex.s. c 130 § 1; 1971 ex.s. c 284 § 1; 1967 c 32 § 68; 1965 ex.s. c 155 § 62.]

Severability—1971 ex.s. c 284: See note following RCW 46.65.010.

Highway safety fund: RCW 46.68.060.

Revocation of license for driving under the influence of intoxicating liquor or drugs: RCW 46.20.285.

STOPPING, STANDING, AND PARKING

46.61.560 Stopping, standing, or parking outside of business or residence districts. (1) Outside of incorporated cities and towns no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the roadway.

(2) Subsection (1) of this section, RCW 46.61.570, and 46.61.575 shall not apply to the driver of any vehicle which is disabled in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the vehicle in such position.

(3) Subsection (1) of this section shall not apply to the driver of a public transit vehicle who shall temporarily stop his vehicle upon the roadway for the purpose of and while actually engaged in receiving or discharging passengers at a marked transit vehicle stop zone approved by the state highway commission or a county upon highways under their respective jurisdictions. [1977 c 24 § 2; 1965 ex.s. c 155 § 64.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "state highway commission" means department of transportation; see RCW 47.04.015.

Rules on leaving motor vehicle unattended: RCW 46.61.600.

46.61.562 Towing operators—Legislative declaration. The business of operating tow trucks for the public in the transportation of disabled or damaged motor vehicles and vehicles incapable of self-propulsion due to mechanical defects or incapacity, by towing or hauling upon the highways of this state, is declared to be a business affecting the public interest. The large volume of motor vehicle traffic, vehicle accidents, congestion, and the need to keep the highways clear requires rapid and efficient service by adequately equipped and capably operated tow trucks. The fact that those persons now operating these businesses are not effectively regulated under existing law makes it necessary that more complete regulation is instituted and administered to make the highways safer for the use of the general public and to assure that adequate, economical, and efficient service, at reasonable charges without unjust discrimination, undue preferences or advantages, and unfair or destructive competitive practices, prevails in the public interest. [1977 1st ex.s. c 167 § 1.]

46.61.563 Towing operators—Definitions. As used in this chapter, the following terms shall have the following meanings unless the context clearly requires otherwise:

(1) "Commission" means the state commission on equipment as defined in RCW 46.37.005;

(2) "Person" means an individual, firm, partnership, corporation, company, association, or their lessees, trustees, or receivers;

(3) "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

(4) "Towing operator" means every person who engages in the towing of vehicles and motor vehicles on a highway by means of equipment affixed to a specially constructed tow truck complying with the equipment specifications and standards promulgated by the commission; and

(5) "Tow truck" means a specially constructed and equipped motor vehicle for towing vehicles and not otherwise used in transporting goods for compensation. [1977 1st ex.s. c 167 § 2.]

46.61.564 Towing operators—Unlawful acts. It shall be unlawful for any person to operate as a towing operator on a highway of this state contrary to the provisions of this chapter or the regulations promulgated pursuant thereto. [1977 1st ex.s. c 167 § 3.]

46.61.565 Officers authorized to remove certain vehicles. (1) Whenever any police officer finds a vehicle standing upon a highway in violation of any of the provisions of RCW 46.61.560, such officer is hereby authorized to provide for the removal of such vehicle to a place of safety or require the driver or other person in charge of the vehicle to move the same, to a position off the main-traveled part of such highway. For the purpose of this section, a place of safety may include the business location of a towing service.

(2) Whenever any police officer finds a vehicle unattended upon any highway where such vehicle constitutes an obstruction to traffic or jeopardizes public safety, such officer is hereby authorized to provide for the removal of such vehicle to a place of safety.

(3) Whenever a police officer finds an unattended vehicle at the scene of an accident or when the driver of any vehicle involved in an accident is physically or mentally incapable, or too intoxicated, to decide upon steps to be taken to protect his or her property, the officer may provide for the removal of the vehicle to a place of safety.

(4) Whenever the driver of a vehicle is arrested and taken into custody by a police officer, and the driver, because of intoxication or otherwise, is mentally incapable of deciding upon steps to be taken to safeguard his or her property, a police officer may provide for the removal of the vehicle to a place of safety.

(5) Nothing in this section shall derogate from the powers of police officers under the common law. [1977 1st ex.s. c 167 § 4; 1965 ex.s. c 155 § 65.]

46.61.567 State patrol—Removal of vehicles directly or by towing operators—Lien for costs of removal and storage—Appeal. The Washington state patrol, under its authority to remove vehicles from the highway, may remove the vehicles directly, through towing operators appointed by the commission and called on a rotational or other basis, through contracts with towing operators, or by a combination of these methods. When removal is to be accomplished through a towing operator on a noncontractual basis, the commission may appoint any towing operator for this purpose upon the application of the operator. Each appointment shall be contingent upon the submission of an application to the commission and the making of subsequent reports in such form and frequency and compliance with such standards of equipment, performance, pricing, and practices as may be required by rule of the commission.

An appointment may be rescinded by the commission at the request of the Washington state patrol upon evidence that the appointed towing operator is not complying with the laws or rules relating to the removal and storage of vehicles from the highway. The costs of removal and storage of vehicles under this section shall be paid by the owner or driver of the vehicle and shall be a lien upon the vehicle until paid.

Rules promulgated under this section shall be binding only upon those towing operators appointed by the commission for the purpose of performing towing services at the request of the Washington state patrol. Any person aggrieved by a decision of the commission made under this section may appeal the decision under chapter 34.04 RCW. [1977 1st ex.s. c 167 § 5.]

46.61.570 Stopping, standing, or parking prohibited in specified places—Reserving portion of highway prohibited. (1) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic control device, no person shall:

(a) Stop, stand, or park a vehicle:

(i) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(ii) On a sidewalk or street planting strip;

(iii) Within an intersection;

(iv) On a crosswalk;

(v) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone, unless official signs or markings indicate a different no-parking area opposite the ends of a safety zone;

(vi) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(vii) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(viii) On any railroad tracks;

(ix) In the area between roadways of a divided highway including crossovers; or

(x) At any place where official signs prohibit stopping.

(b) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

(i) In front of a public or private driveway or within five feet of the end of the curb radius leading thereto;

(ii) Within fifteen feet of a fire hydrant;

(iii) Within twenty feet of a crosswalk;

(iv) Within thirty feet upon the approach to any flashing signal, stop sign, yield sign, or traffic control signal located at the side of a roadway;

(v) Within twenty feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of said entrance when properly signposted; or

(vi) At any place where official signs prohibit standing.

(c) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers:

(i) Within fifty feet of the nearest rail of a railroad crossing; or

(ii) At any place where official signs prohibit parking.

(2) Parking or standing shall be permitted in the manner provided by law at all other places except a time limit may be imposed or parking restricted at other places but such limitation and restriction shall be by city ordinance or county resolution or order of the secretary of transportation upon highways under their respective jurisdictions.

(3) No person shall move a vehicle not lawfully under his or her control into any such prohibited area or away from a curb such a distance as is unlawful.

(4) It shall be unlawful for any person to reserve or attempt to reserve any portion of a highway for the purpose of stopping, standing, or parking to the exclusion of any other like person, nor shall any person be granted such right. [1977 1st ex.s. c 151 § 40; 1975 c 62 § 35; 1965 ex.s. c 155 § 66.]

Federal requirements—Severability—1977 1st ex.s. c 151: See RCW 47.98.070 and 47.98.080.

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.575 Additional parking regulations. (1)

Except as otherwise provided in this section, every vehicle stopped or parked upon a two-way roadway shall be so stopped or parked with the right-hand wheels parallel to and within twelve inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.

(2) Except when otherwise provided by local ordinance, every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within twelve inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder, or with its left-hand wheels within twelve inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder.

(3) Local authorities may by ordinance or resolution permit angle parking on any roadway, except that angle parking shall not be permitted on any federal-aid or state highway unless the secretary of transportation has determined by order that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(4) The secretary with respect to highways under his or her jurisdiction may place official traffic control devices prohibiting, limiting, or restricting the stopping, standing, or parking of vehicles on any highway where the secretary has determined by order, such stopping, standing, or parking is dangerous to those using the highway or where the stopping, standing, or parking of vehicles would unduly interfere with the free movement of traffic thereon. No person shall stop, stand, or park any vehicle in violation of the restrictions indicated by such devices. [1977 1st ex.s. c 151 § 41; 1975 c 62 § 36; 1965 ex.s. c 155 § 67.]

Federal requirements—Severability—1977 1st ex.s. c 151: See RCW 47.98.070 and 47.98.080.

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.587 Winter recreational parking areas—**Penalty—Permit to be issued upon payment of fine.**

Any violation of RCW 43.51.320 or 46.61.585 or any rule promulgated by the parks and recreation commission to enforce the provisions thereof shall be punished by a fine of not more than twenty-five dollars plus court costs, and said fine shall be deposited in the winter recreational parking account. Upon payment of the fine, a special winter recreational parking permit for the calendar year in which the violation occurs shall be issued by the commission to the owner of the vehicle subject to compliance with the rules and regulations governing the issuance of such permit. [1977 c 57 § 1; 1975 1st ex.s. c 209 § 6.]

Severability—1975 1st ex.s. c 209: See note following RCW 43.51.290.

MISCELLANEOUS RULES

46.61.670 Driving with wheels off roadway. It shall be unlawful to operate or drive any vehicle or combination of vehicles over or along any pavement or gravel or crushed rock surface on a public highway with one wheel or all of the wheels off the roadway thereof, except as permitted by RCW 46.61.428 or for the purpose of stopping off such roadway, or having stopped thereat, for proceeding back onto the pavement, gravel or crushed rock surface thereof. [1977 1st ex.s. c 39 § 2; 1961 c 12 § 46.56.130. Prior: 1937 c 189 § 96; RRS § 6360-96. Formerly RCW 46.36.130, (second, third, fourth paragraphs). Formerly RCW 46.56.130.]

Chapter 46.65

WASHINGTON HABITUAL TRAFFIC OFFENDERS ACT

Sections

46.65.090 Unlawful operation of motor vehicle by habitual offender—Penalty—Procedure to enforce.

46.65.090 Unlawful operation of motor vehicle by habitual offender—Penalty—Procedure to enforce.

It shall be unlawful for any person to operate a motor vehicle in this state while the order of revocation remains in effect. Any person found to be an habitual offender under the provisions of this chapter who is thereafter convicted of operating a motor vehicle in this state while the order of the court prohibiting such operation is in effect shall be guilty of a gross misdemeanor, the punishment for which shall be confinement in the county jail for not more than one year.

For the purpose of enforcing this section, in any case in which the accused is charged with driving a motor vehicle while his license, permit, or privilege to drive is suspended or revoked or is charged with driving without a license, the court before hearing such charge shall determine whether such person has been adjudged an habitual offender and by reason of such judgment is barred from operating a motor vehicle on the highways of this state. If the court determines the accused has been so adjudged, the court shall have jurisdiction for trial of the charge. [1977 1st ex.s. c 138 § 1; 1971 ex.s. c 284 § 11.]

Chapter 46.68

DISPOSITION OF REVENUE

Sections

46.68.041 Disposition of drivers' license and instruction permit fees—Support of traffic safety education.
46.68.090 Motor vehicle fund "net tax amount," how arrived at.
46.68.100 Allocation of net tax amount in motor vehicle fund.
46.68.115 Allocation and use of amounts distributed to cities and towns.
46.68.120 Distribution of amount allocated to counties.
46.68.150 Construction and improvement of state highways in urban areas—Expenditure of motor vehicle fuel taxes and bond proceeds.

46.68.041 Disposition of drivers' license and instruction permit fees—Support of traffic safety education. (1) The department shall forward all funds accruing under the provisions of chapter 46.20 RCW together with a proper identifying, detailed report to the state treasurer who shall deposit such moneys to the credit of the highway safety fund except as otherwise provided in this section.

(2) One dollar of each fee collected for a temporary instruction permit shall be deposited in the traffic safety education account in the general fund.

(3) Out of each fee of six dollars collected for a driver's license, the sum of four dollars and ten cents shall be deposited in the highway safety fund, and one dollar and ninety cents shall be deposited in the general fund. [1977 c 27 § 1; 1975 1st ex.s. c 293 § 20; 1971 ex.s. c 91 § 2; 1969 c 99 § 9; 1967 c 174 § 3; 1965 c 25 § 4.]

Severability—1975 1st ex.s. c 293: See RCW 43.88.902.

Effective date—1975 1st ex.s. c 293: See RCW 43.88.910.

46.68.090 Motor vehicle fund "net tax amount," how arrived at. All moneys which have accrued or may accrue to the motor vehicle fund from the motor vehicle fuel tax and special fuel tax shall be first expended for the following purposes:

(1) For payment of refunds of motor vehicle fuel tax and special fuel tax which has been paid and is refundable as provided by law;

(2) For payment of amounts to be expended pursuant to appropriations for the administrative expenses of the offices of state treasurer, state auditor, and the department of motor vehicles of the state of Washington in the administration of the motor vehicle fuel tax and the special fuel tax; said sums to be distributed monthly.

The amount accruing to the motor vehicle fund by virtue of the motor vehicle fuel tax and the special fuel tax and remaining after payments as provided in subsections (1) and (2) above shall, for the purposes of this chapter, be referred to as the "net tax amount". [1977 1st ex.s. c 317 § 8; 1967 c 32 § 74; 1961 ex.s. c 7 § 5; 1961 c 12 § 46.68.090. Prior: 1943 c 115 § 3; 1939 c 181 § 2; Rem. Supp. 1943 § 6600-1d; 1937 c 208 §§ 2, part, 3, part.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334: See RCW 46.01.020.

Effective dates—Severability—1977 1st ex.s. c 317: See notes following RCW 82.36.010.

46.68.100 Allocation of net tax amount in motor vehicle fund. From the net tax amount in the motor vehicle fund there shall be paid monthly as funds accrue the following sums:

(1) To the cities and towns, to be distributed as provided by RCW 46.68.110, sums equal to six and ninety-two hundredths percent of the net tax amount;

(2) To the cities and towns, to be expended as provided by RCW 46.68.115, sums equal to four and sixty-one hundredths percent of the net tax amount;

(3) To the counties, sums equal to twenty-two and seventy-eight hundredths percent of the net tax amount out of which there shall be distributed from time to

time, as directed by the highway commission, those sums as may be necessary to carry out the provisions of RCW 47.56.725, with the balance of such county share to be distributed monthly as the same accrues for distribution in accordance with RCW 46.68.120;

(4) To the urban arterial trust account in the motor vehicle fund, sums equal to seven and twelve hundredths percent of the net tax amount;

(5) To the state, to be expended as provided by RCW 46.68.130, sums equal to forty-five and twenty-six hundredths percent of the net tax amount;

(6) To the state, to be expended as provided by RCW 46.68.150 as now or hereafter amended, sums equal to six and ninety-five hundredths percent of the net tax amount;

(7) To the Puget Sound reserve account in the motor vehicle fund sums equal to three and twenty-one hundredths percent of the net tax amount;

(8) To the Puget Sound ferry operations account in the motor vehicle fund sums equal to three and fifteen hundredths percent of the net tax amount.

Nothing in this section or in RCW 46.68.090 as now or hereafter amended or 46.68.130 shall be construed so as to violate any terms or conditions contained in any highway construction bond issues now or hereafter authorized by statute and whose payment is by such statute pledged to be paid from any excise taxes on motor and special-vehicle fuels. [1977 1st ex.s. c 317 § 9; 1977 c 51 § 1; 1975-'76 2nd ex.s. c 57 § 1; 1973 1st ex.s. c 124 § 1; 1972 ex.s. c 24 § 2; 1970 ex.s. c 85 § 4; 1967 ex.s. c 145 § 79; 1967 ex.s. c 83 § 8; 1961 ex.s. c 7 § 6; 1961 c 12 § 46.68.100. Prior: 1959 ex.s. c 4 § 1; 1957 c 271 § 3; 1957 c 175 § 10; 1943 c 83 § 1; 1939 c 181 § 3; Rem. Supp. 1943 § 6600-1e; 1937 c 208 §§ 2, part, 3, part.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "highway commission" means department of transportation; see RCW 47.04.015.

Effective dates—Severability—1977 1st ex.s. c 317: See notes following RCW 82.36.010.

Effective date—1977 c 51: "This 1977 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, 1977." [1977 c 51 § 4.]

Severability—1977 c 51: "If any provision of this 1977 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." [1977 c 51 § 3.]

The foregoing annotations apply to RCW 46.68.100 and 47.56.725.

46.68.115 Allocation and use of amounts distributed to cities and towns. The sums distributed to cities and towns as set forth in subsection (2) of RCW 46.68.100, as now or hereafter amended, shall be allocated between them as provided by RCW 46.68.110, subject to the provisions of RCW 35.76.050, to be used exclusively for the construction, improvement, and repair of arterial highways and city streets as those terms are defined in RCW 46.04.030 and 46.04.120, or for the payment of any municipal indebtedness which may be incurred after June 12, 1963, in the construction, improvement, and repair of arterial highways and city streets. [1977 1st ex.s. c 317 § 10.]

Effective dates—Severability—1977 1st ex.s. c 317: See notes following RCW 82.36.010.

46.68.120 Distribution of amount allocated to counties. Funds to be paid to the counties of the state shall be subject to deduction and distribution as follows:

(1) One and one-half percent of such sums shall be deducted monthly as such sums accrue and set aside for the use of the department of transportation and the county road administration board for the supervision of work and expenditures of such counties on the county roads thereof, including the supervision and administration of federal-aid programs for which the transportation commission has responsibility: *Provided*, That any moneys so retained and not expended shall be credited in the succeeding biennium to the counties in proportion to deductions herein made;

(2) All sums required to be repaid to counties composed entirely of islands shall be deducted;

(3) The balance remaining to the credit of counties after such deductions shall be paid to the several counties monthly, as such funds accrue, upon the basis of the following formula:

(a) Ten percent of such sum shall be divided equally among the several counties.

(b) Thirty percent shall be paid to each county in direct proportion that the sum of the total number of private automobiles and trucks licensed by registered owners residing in unincorporated areas and seven percent of the number of private automobiles and trucks licensed by registered owners residing in incorporated areas within each county bears to the total of such sums for all counties. The number of registered vehicles so used shall be as certified by the director of the department of motor vehicles for the year next preceding the date of calculation of the allocation amounts. The director of the department shall first supply such information not later than the fifteenth day of February, 1956, and on the fifteenth of February each two years thereafter.

(c) Thirty percent shall be paid to each county in direct proportion that the product of the county's trunk highway mileage and its prorated estimated annual cost per trunk mile as provided in subsection (e) is to the sum of such products for all counties. County trunk highways are defined as county roads regularly used by school buses and/or rural free delivery mail carriers of the United States post office department, but not foot carriers. Determination of the number of miles of county roads used in each county by school buses shall be based solely upon information supplied by the superintendent of public instruction who shall on October 1, 1955, and on October 1st of each odd-numbered year thereafter furnish the transportation commission with a map of each county upon which is indicated the county roads used by school buses at the close of the preceding school year, together with a detailed statement showing the total number of miles of county highway over which school buses operated in each county during such year. Determination of the number of miles of county roads used in each county by rural mail carriers on routes serviced by vehicles during the year shall be based solely

upon information supplied by the United States postal department as of January 1st of the even-numbered years.

(d) Thirty percent of such sum shall be paid to each of the several counties in the direct proportion that the product of the trunk highway mileage of the county and its "money need factor" as defined in subsection (f) is to the total of such products for all counties.

(e) Every four years, beginning with the 1958 allocation, the transportation commission and the legislative transportation committee shall reexamine or cause to be reexamined all the factors on which the estimated annual costs per trunk mile for the several counties have been based and shall make such adjustments as may be necessary. The following formula shall be used: One twenty-fifth of the estimated total county road replacement cost, plus the total annual maintenance cost, divided by the total miles of county road in such county, and multiplied by the result obtained from dividing the total miles of county road in said county by the total trunk road mileage in said county. For the purpose of allocating funds from the motor vehicle fund, a county road shall be defined as one established as such by resolution or order of establishment of the county legislative authority.

(f) The "money need factor" for each of the several counties shall be the difference between the prorated estimated annual costs as provided for in subsection (e) of this subsection and the sum of the following three amounts divided by the county trunk highway mileage:

(1) The equivalent of a two dollar and twenty-five cents per thousand dollars of assessed value tax levy on the valuation, as equalized by the state department of revenue for state purposes, of all taxable property in the county road districts;

(2) One-fourth the sum of all funds received by the county from the federal forest reserve fund during the two calendar years next preceding the date of the adjustment of the allocation amounts as certified by the state treasurer; and

(3) One-half the sum of motor vehicle license fees and motor vehicle fuel tax refunded to the county during the two calendar years next preceding the date of the adjustment of the allocation amounts as provided in RCW 46.68.080. These shall be as supplied to the transportation commission by the state treasurer for that purpose. The department of revenue and the state treasurer shall supply the information herein requested on or before January 1, 1956, and on said date each two years thereafter.

The following formula shall be used for the purpose of obtaining the "money need factor" of the several counties: The prorated estimated annual cost per trunk mile multiplied by the trunk miles will equal the total need of the individual county. The total need minus the sum of the three resources set forth in subsection (f) shall equal the net need. The net need of the individual county divided by the total net needs for all counties shall equal the "money need factor" for that county.

(g) The transportation commission shall adjust the allocations of the several counties on March 1st of every even-numbered year based solely upon the sources of

information hereinbefore required: *Provided*, That the total allocation factor composed of the sum of the four factors defined in subsections (a), (b), (c), and (d) shall be held to a level not more than five percent above or five percent below the total allocation factor in use during the previous two year period.

(h) The transportation commission and the legislative transportation committee shall relog or cause to be relogged the total road mileages upon which the prorated estimated annual costs per trunk mile are based and shall recalculate such costs on the basis of such relogging and shall report their findings and recommendations to the legislature at its next regular session.

(i) The transportation commission and the legislative transportation committee shall study and report their findings and recommendations to the legislature concerning the following problems as they affect the allocation of "motor vehicle fund" funds to counties:

(1) Comparative costs per trunk mile based on federal aid contracts versus those herein advocated;

(2) Average costs per trunk mile;

(3) The advisability of using either "trunk mileage" or "county road" mileage exclusively as the criterion instead of both as in this plan adopted;

(4) Reassessment of bridge costs based on current information and relogging of bridges;

(5) The items in the list of resources used in determining the "need factor";

(6) The development of a uniform accounting system for counties with regard to road and bridge construction and maintenance costs;

(7) A redefinition of rural and urban vehicles which better reflects the use of said vehicles on county roads. [1977 1st ex.s. c 151 § 42; 1975 1st ex.s. c 100 § 2; 1973 1st ex.s. c 195 § 47; 1972 ex.s. c 103 § 1; 1967 c 32 § 75; 1965 ex.s. c 120 § 12; 1961 c 12 § 46.68.120. Prior: 1957 c 109 § 1; 1955 c 243 § 1; 1949 c 143 § 2; 1945 c 260 § 1; 1943 c 83 § 3; 1939 c 181 § 5; Rem. Supp. 149 § 6600-2a.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Federal requirements—Severability—1977 1st ex.s. c 151: See RCW 47.98.070 and 47.98.080.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Severability—1972 ex.s. c 103: See note following RCW 47.30.030.

County road administration board—Expenses to be paid from motor vehicle fund—Disbursement procedure: RCW 36.78.110.

46.68.150 Construction and improvement of state highways in urban areas—Expenditure of motor vehicle fuel taxes and bond proceeds. The sums distributed to the state pursuant to RCW 46.68.100(6) as now or hereafter amended, and the proceeds of bonds issued and sold pursuant to RCW 47.26.400 through 47.26.407 shall be expended by the state highway commission for construction and improvement of state highways in urban areas as provided for in RCW 47.26.040 through 47.26.070 or for payment of principal and interest on bonds issued pursuant to RCW 47.26.400 through 47.26.407: *Provided*, That at the end of each fiscal

quarter the state treasurer shall determine the amount, if any, that the sums distributed to the state pursuant to RCW 46.68.100(6) as now or hereafter amended exceed an amount equivalent to the proceeds of five-eighths of one cent motor vehicle and special fuel excise tax collected on the net gallonage after the deductions provided for in RCW 82.36.020 for the preceding fiscal quarter. The amount so ascertained shall be available first to repay the counties, cities, and towns for any moneys derived from excise taxes on motor vehicle and special fuels distributable to the counties, cities, and towns pursuant to RCW 46.68.100 but as a result of the pledge and debt service payment provisions contained in RCW 47.26.404 and 47.26.405 and as certified by the state finance committee have been used to repay state urban bonds (and interest thereon) authorized by RCW 47.26.400 through 47.26.407, and after such sums have been repaid in full, then for expenditure as provided in RCW 46.68.130. [1977 1st ex.s. c 317 § 11; 1967 ex.s. c 83 § 9.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "state highway commission" means department of transportation; see RCW 47.04.015.

Reviser's note: The reference to "sections 37 through 44 of this 1967 amendatory act" has been translated to "RCW 47.26.400 through 47.26.407". A literal translation of said phrase would have been "RCW 47.26.401 through 47.26.410" which appears to be erroneous. The error appears to have occurred in failure to change this internal reference in accordance with the renumbering of sections brought about by removal of section 34 from Engrossed House Bill No. 595 by floor amendment.

Effective dates—Severability—1977 1st ex.s. c 317: See notes following RCW 82.36.010.

Effective date—1967 ex.s. c 83: See RCW 47.26.910.

Severability—1967 ex.s. c 83: See RCW 47.26.900.

Chapter 46.70

UNFAIR MOTOR VEHICLE BUSINESS PRACTICES—DEALERS' AND SALESMEN'S LICENSES

Sections

46.70.011	Definitions (as amended by 1977 1st ex.s. c 125).
46.70.011	Definitions (as amended by 1977 1st ex.s. c 204).
46.70.041	Application for license—Contents.
46.70.101	Denial, suspension, or revocation of licenses— Grounds.
46.70.180	Unlawful acts and practices.

46.70.011 Definitions (as amended by 1977 1st ex.s. c 125). As used in this chapter:

(1) "Vehicle" means and includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(2) "Motor vehicle" shall mean every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and which is required to be registered and titled under Title 46 RCW, Motor Vehicles.

(3) "Vehicle dealer" means any person, firm, association, corporation, or trust, not excluded by subsection (4) of this section, engaged in the business of buying, selling, exchanging, offering, brokering, leasing with an option to purchase, auctioning, soliciting, or advertising the sale of new or used vehicles, or providing or licensing for use facilities and/or services for compensation of any kind which bring together

potential buyers and sellers: *Provided*, That vehicle dealers shall be classified as follows:

(a) A "motor vehicle dealer" shall be a vehicle dealer that deals in new and used motor vehicles;

(b) A "mobile home and travel trailer dealer" shall be a vehicle dealer that deals in mobile homes or travel trailers, or both;

(c) A "miscellaneous vehicle dealer" shall be a vehicle dealer that deals in motorcycles and/or vehicles other than motor vehicles or mobile homes and travel trailers.

(4) The term "vehicle dealer" does not include:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by, or acting under a judgment or order of any court; or

(b) Public officers while performing their official duties; or

(c) Employees of vehicle dealers who are engaged in the specific performance of their duties as such employees; or

(d) Any person engaged in an isolated sale of a vehicle in which he is the registered or legal owner, or both, thereof.

(e) Any person, firm, association, corporation, or trust, engaged in the selling of equipment other than vehicles, used for agricultural or industrial purposes.

(5) "Vehicle salesman" means any person who for any form of compensation sells, auctions, leases with an option to purchase, or offers to sell or to so lease vehicles on behalf of a vehicle dealer.

(6) The term "department" means the department of motor vehicles which shall administer and enforce the provisions of this chapter.

(7) "Director" means the director of the department of motor vehicles.

(8) "Manufacturer" means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused vehicles and shall further include the terms:

(a) "Distributor" which means any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new and unused vehicle to vehicle dealers or who maintains factory representatives.

(b) "Factory branch" which means a branch office maintained by a manufacturer for the purpose of selling or offering for sale, vehicles to a distributor, wholesaler, or vehicle dealer, or for directing or supervising in whole or in part factory or distributor representatives, and shall further include any sales promotion organization, whether the same be a person, firm, or corporation, which is engaged in promoting the sale of new and unused vehicles in this state of a particular brand or make to vehicle dealers.

(c) "Factory representative" which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of his, its, or their vehicles or for supervising or contracting with his, its, or their dealers or prospective dealers.

(9) "Established place of business" means a permanent, enclosed commercial building located within the state of Washington easily accessible and open to the public, at all reasonable times, with an improved display area of not less than three thousand square feet in or immediately adjoining said building, and at which the business of a vehicle dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building code, zoning, and other land-use regulatory ordinances and in which such building the public may contact the vehicle dealer or his vehicle salesman, at all reasonable times and at which place of business shall be kept and maintained the books, records, and files necessary to conduct the business at such place. The established place of business shall display an exterior sign permanently affixed to the land or building, with letters clearly visible to the major avenue of traffic. A dealer operating a listing service who does not physically maintain any vehicles for display, or a vehicle dealer who merely rents or leases or licenses for use any space on a temporary basis not to exceed two days to private persons to sell their own vehicles, need not operate in a commercial building nor have such a display area.

(10) "Subagency" means any place of business of a vehicle dealer within the same county as the principal place of business of the firm which is physically and geographically separated from the principal place of business of the firm or any place of business of a vehicle dealer within the same county as the principal place of business of the firm under which he does business under a name other than the principal name of the firm, or both. [1977 1st ex.s. c 125 § 1; 1973 1st ex.s. c 132 § 2; 1969 ex.s. c 63 § 1; 1967 ex.s. c 74 § 3.]

46.70.011 Definitions (as amended by 1977 1st ex.s. c 204). As used in this chapter:

(1) "Vehicle" means and includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(2) "Motor vehicle" shall mean every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and which is required to be registered and titled under Title 46 RCW, Motor Vehicles.

(3) "Vehicle dealer" means any person, firm, association, corporation or trust, not excluded by subsection (4) of this section, engaged in the business of buying, selling, exchanging, offering, brokering, leasing with an option to purchase, auctioning, soliciting, or advertising the sale of new, or used vehicles: *Provided*, That vehicle dealers shall be classified as follows:

(a) A "motor vehicle dealer" shall be a vehicle dealer that deals in new and used motor vehicles;

(b) A "mobile home and travel trailer dealer" shall be a vehicle dealer that deals in mobile homes or travel trailers, or both;

(c) A "miscellaneous vehicle dealer" shall be a vehicle dealer that deals in motorcycles and/or vehicles other than motor vehicles or mobile homes and travel trailers.

(4) The term "vehicle dealer" does not include:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by, or acting under a judgment or order of any court; or

(b) Public officers while performing their official duties; or

(c) Employees of vehicle dealers who are engaged in the specific performance of their duties as such employees; or

(d) Any person engaged in an isolated sale of a vehicle in which he is the registered or legal owner, or both, thereof; or

(e) Any person, firm, association, corporation or trust, engaged in the selling of equipment other than vehicles, used for agricultural or industrial purposes; or

(f) A real estate broker licensed under chapter 18.85 RCW, or his authorized representative, who, on behalf of the legal or registered owner of a mobile home, assists with the sale of the mobile home in conjunction with the sale of the real estate upon which the mobile home is located.

(5) "Vehicle salesman" means any person who for any form of compensation sells, auctions, leases with an option to purchase, or offers to sell or to so lease vehicles on behalf of a vehicle dealer.

(6) The term "department" means the department of motor vehicles which shall administer and enforce the provisions of this chapter.

(7) "Director" means the director of the department of motor vehicles.

(8) "Manufacturer" means any person, firm, association, corporation or trust, resident or nonresident, who manufactures or assembles new and unused vehicles and shall further include the terms:

(a) "Distributor" which means any person, firm, association, corporation or trust, resident or nonresident, who in whole or in part offers for sale, sells or distributes any new and unused vehicle to vehicle dealers or who maintains factory representatives.

(b) "Factory branch" which means a branch office maintained by a manufacturer for the purpose of selling or offering for sale, vehicles to a distributor, wholesaler or vehicle dealer, or for directing or supervising in whole or in part factory or distributor representatives, and shall further include any sales promotion organization, whether the same be a person, firm or corporation, which is engaged in promoting the sale of new and unused vehicles in this state of a particular brand or make to vehicle dealers.

(c) "Factory representative" which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of his, its, or their vehicles or for supervising or contracting with his, its, or their dealers or prospective dealers.

(9) "Established place of business" means a permanent, enclosed commercial building located within the state of Washington easily accessible and open to the public, at all reasonable times, with an improved display area of not less than three thousand square feet in or immediately adjoining said building, and at which the business of a vehicle dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building code, zoning and other land-use regulatory ordinances and in

which such building the public may contact the vehicle dealer or his vehicle salesman, at all reasonable times and at which place of business shall be kept and maintained the books, records and files necessary to conduct the business at such place. The established place of business shall display an exterior sign permanently affixed to the land or building, with letters clearly visible to the major avenue of traffic.

(10) "Subagency" means any place of business of a vehicle dealer within the same county as the principal place of business of the firm which is physically and geographically separated from the principal place of business of the firm or any place of business of a vehicle dealer within the same county as the principal place of business of the firm under which he does business under a name other than the principal name of the firm, or both. [1977 1st ex.s. c 204 § 2; 1973 1st ex.s. c 132 § 2; 1969 ex.s. c 63 § 1; 1967 ex.s. c 74 § 3.]

Reviser's note: RCW 46.70.011 was amended twice during the 1977 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

46.70.041 Application for license—Contents. (1)

Every application for a vehicle dealer or a vehicle salesman's license shall contain the following information to the extent the same is applicable to the applicant:

(a) Proof as the department may require concerning the applicant's identity, including but not limited to his fingerprints, the honesty, truthfulness, and good reputation of the applicant for license, or of the officers of a corporation making the application;

(b) The applicant's form and place of organization;

(c) The qualification and business history of the applicant, and in the case of a vehicle dealer, any partner, officer or director;

(d) Whether the applicant has been adjudged guilty of a crime which directly relates to the business for which the license is sought and the time elapsed since the conviction is less than ten years, or has suffered any judgment within the preceding five years in any civil action involving fraud, misrepresentation or conversion and in the case of a corporation or partnership, all directors, officers or partners;

(e) Any other information the department may reasonably require.

(2) If the applicant is a vehicle dealer:

(a) Name or names of new vehicles the vehicle dealer wishes to sell;

(b) The names and addresses of each manufacturer from whom the applicant has received a franchise;

(c) Whether the applicant intends to sell used vehicles, and if so, whether he has space available for servicing and repairs;

(d) A certificate by the chief of police or his deputy, or a member of the Washington state patrol or a representative of the department of motor vehicles that the applicant has an established place of business at each business location in the state of Washington: *Provided*, That in no event shall such certificate be issued by a member of the Washington state patrol if the dealership is located in a city which has a population in excess of five thousand persons;

(e) A copy of a current service agreement with a manufacturer, or distributor for a foreign manufacturer,

requiring the applicant, upon demand of any customer receiving a new vehicle warranty to perform or arrange for, within a reasonable distance of his established place of business, the service repair and replacement work required of the manufacturer or distributor by such vehicle warranty: *Provided*, That this requirement shall only apply to applicants seeking to sell, to exchange, to offer, to broker, to auction, to solicit or to advertise new or current-model vehicles with factory or distributor warranties;

(f) The class of vehicles the vehicle dealer will be buying, selling, exchanging, offering, brokering, leasing with an option to purchase, auctioning, soliciting, or advertising, or for which the dealer will be providing or licensing for use facilities and/or services for compensation of any kind which bring together potential buyers and sellers, and which classification or classifications the dealer wishes to be designated as;

(g) The applicant's financial condition or history including whether the applicant or any partner, officer or director has ever been adjudged bankrupt or has any unsatisfied judgment in any federal or state court.

(3) If the applicant is a vehicle salesman, such application shall contain, in addition, a certification by the vehicle dealer for whom he is going to work that he has examined the background of the applicant and to the best of his knowledge is of good moral character;

(4) If the applicant is a manufacturer such application shall contain the following information to the extent it is applicable to the applicant:

(a) The name and address of the principal place of business of the applicant and, if different, the name and address of the Washington state representative of the applicant;

(b) The name or names under which the applicant will do business in the state of Washington;

(c) Evidence that the applicant is authorized to do business in the state of Washington;

(d) The name or names of the vehicles that the licensee manufactures;

(e) The name or names and address or addresses of each and every distributor, factory branch, and factory representative;

(f) The name or names and address or addresses of resident employees or agents to provide service or repairs to vehicles located in the state of Washington only under the terms of any warranty attached to new or unused vehicles manufactured, unless such manufacturer requires warranty service to be performed by all of its dealers pursuant to a current service agreement on file with the department;

(g) Any other information the department may reasonably require. [1977 1st ex.s. c 125 § 2; 1973 1st ex.s. c 132 § 5; 1971 ex.s. c 74 § 1; 1969 ex.s. c 63 § 2; 1967 ex.s. c 74 § 6.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Definition of "established place of business": RCW 46.70.011(9).

46.70.101 Denial, suspension, or revocation of licenses—Grounds. The director may by order deny,

suspend or revoke the license of any vehicle dealer, vehicle manufacturer, or vehicle salesman or, in lieu thereof or in addition thereto, may by order assess monetary penalties of a civil nature not to exceed one thousand dollars per violation, if he finds that the order is in the public interest and that the applicant, or licensee:

(1) In the case of a vehicle dealer:

(a) The applicant or licensee, or any partner, officer, director, owner of ten percent or more of the assets of the firm, or managing employee:

(i) Was the holder of a license issued pursuant to this chapter, which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled, or which license was assessed a civil penalty and the assessed amount has not been paid;

(ii) Has been adjudged guilty of a crime which directly relates to the business of a vehicle dealer and the time elapsed since the adjudication is less than ten years, or suffering any judgment within the preceding five years in any civil action involving fraud, misrepresentation or conversion. For the purposes of this section, adjudged guilty shall mean in addition to a final conviction in either a state or municipal court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt regardless of whether the sentence is deferred or the penalty is suspended;

(iii) Has knowingly or with reason to know made a false statement of a material fact in his application for license or any data attached thereto, or in any matter under investigation by the department;

(iv) Does not have an established place of business as defined in this chapter;

(v) Employs an unlicensed salesman or one whose license has been denied, revoked within the last year, or is currently suspended, the terms of which have not been fulfilled;

(vi) Refuses to allow representatives or agents of the department to inspect during normal business hours all books, records and files maintained within this state;

(vii) Sells, exchanges, offers, brokers, auctions, solicits or advertises a new or current model vehicle to which a factory new vehicle warranty attaches and fails to have a valid, written service agreement as required by this chapter, or having such agreement refuses to honor the terms of such agreement within a reasonable time or repudiates the same;

(viii) Is insolvent, either in the sense that his liabilities exceed his assets, or in the sense that he cannot meet his obligations as they mature;

(ix) Fails to pay any civil monetary penalty assessed by the director pursuant to this section within ten days after such assessment becomes final.

(b) The applicant or licensee, or any partner, officer, director, owner of ten percent of the assets of the firm, or any employee or agent:

(i) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;

(ii) Has defrauded or attempted to defraud the state, or a political subdivision thereof of any taxes or fees in connection with the sale or transfer of a vehicle;

(iii) Has forged the signature of the registered or legal owner on a certificate of title;

(iv) Has purchased, sold, disposed of, or has in his possession any vehicle which he knows or has reason to know has been stolen or appropriated without the consent of the owner;

(v) Has wilfully failed to deliver to a purchaser a certificate of ownership to a vehicle which he has sold;

(vi) Has committed any act in violation of RCW 46.70.090 relating to vehicle dealer license plates and manufacturer license plates;

(vii) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices; or

(viii) Has engaged in practices inimical to the health or safety of the citizens of the state of Washington including but not limited to failure to comply with standards set by the state of Washington or the federal government pertaining to the construction or safety of vehicles;

(c) The licensee or any partner, officer, director, owner of ten percent or more of the assets of the firm holds or has held any such position in any other vehicle dealership licensed pursuant to this chapter which is subject to final proceedings under this section.

(2) In the case of a vehicle salesman:

(a) Was the holder of, or was a partner in a partnership, or was an officer, director, or owner involved in the management of a corporation which was the holder, of a license issued pursuant to this chapter which was revoked for cause and never reissued, or was suspended and the terms of the suspension had not been fulfilled, or which license was assessed a civil penalty and the assessed amount has not been paid;

(b) Has been adjudged guilty of a crime which directly relates to the business of a vehicle salesman and the time elapsed since the conviction is less than ten years, or suffering any judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion. For the purpose of this section, the term adjudged guilty shall mean, in addition to a final conviction in either a state or municipal court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt regardless of whether the imposition of sentence is deferred or the penalty is suspended;

(c) Has knowingly or with reason to know made a false statement of a material fact in his application for license or any data attached thereto or in any matter under investigation by the department;

(d) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;

(e) Has defrauded or attempted to defraud the state, or a political subdivision thereof, of any taxes or fees in connection with the sale or transfer of a vehicle;

(f) Has forged the signature of the registered or legal owner on a certificate of title;

(g) Has purchased, sold, or disposed of, or has in his possession, any vehicle which he knows or has reason to know has been stolen or appropriated without the consent of the owner;

(h) Has wilfully failed to deliver to a purchaser a certificate of ownership to a vehicle which he has sold;

(i) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices;

(j) Fails to pay any civil monetary penalty assessed by the director pursuant to this section within ten days after such assessment becomes final.

(3) In the case of a manufacturer, or any partner, officer, director, or majority shareholder:

(a) Was or is the holder of a license issued pursuant to this chapter which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled, or which license was assessed a civil penalty and the assessed amount has not been paid;

(b) Has knowingly or with reason to know, made a false statement of a material fact in his application for license, or any data attached thereto, or in any matter under investigation by the department;

(c) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;

(d) Has defrauded or attempted to defraud the state, or political subdivision thereof, of any taxes or fees in connection with the sale or transfer of a vehicle;

(e) Has purchased, sold, or disposed of, or has in his possession, any vehicle which he knows or has reason to know has been stolen or appropriated without the consent of the owner;

(f) Has committed any act in violation of RCW 46.70.090 relating to vehicle dealer license plates and manufacturer license plates;

(g) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices;

(h) Sells or distributes in this state or transfers into this state for resale, any new or unused vehicle to which a warranty attaches or has attached and refuses to honor the terms of such warranty within a reasonable time or repudiates the same;

(i) Fails to maintain one or more resident employees or agents to provide service or repairs to vehicles located within the state of Washington only under the terms of any warranty attached to new or unused vehicles manufactured and which are or have been sold or distributed in this state or transferred into this state for resale unless such manufacturer requires warranty service to be performed by all of its dealers pursuant to a current service agreement on file with the department;

(j) Fails to reimburse within a reasonable time any vehicle dealer within the state of Washington who in good faith incurs reasonable obligations in giving effect to warranties that attach or have attached to any new or unused vehicle sold or distributed in this state or transferred into this state for resale by any such manufacturer;

(k) Engaged in practices inimical to the health and safety of the citizens of the state of Washington including but not limited to failure to comply with standards

set by the state of Washington or the federal government pertaining to the construction and safety of vehicles;

(l) Is insolvent either in the sense that his liabilities exceed his assets or in the sense that he cannot meet his obligations as they mature. [1977 1st ex.s. c 125 § 3; 1973 1st ex.s. c 132 § 14; 1969 ex.s. c 63 § 4; 1967 ex.s. c 74 § 11.]

46.70.180 Unlawful acts and practices. Each of the following acts or practices is hereby declared unlawful:

(1) To cause or permit to be advertised, printed, displayed, published, distributed, broadcasted, televised, or disseminated in any manner whatsoever, any statement or representation with regard to the sale or financing of a vehicle which is false, deceptive or misleading, including but not limited to the following:

(a) That no down payment is required in connection with the sale of a vehicle when a down payment is in fact required, or that a vehicle may be purchased for less down payment than is actually required;

(b) That a certain percentage of the sale price of a vehicle may be financed when such financing is not offered in a single document evidencing the entire security transaction;

(c) That a certain percentage is the amount of the service charge to be charged for financing, without stating whether this percentage charge is a monthly amount or an amount to be charged per year;

(d) That a new vehicle will be sold for a certain amount above or below cost without computing cost as the exact amount of the factory invoice on the specific vehicle to be sold;

(e) That a vehicle will be sold upon a monthly payment of a certain amount, without including in the statement the number of payments of that same amount which are required to liquidate the unpaid purchase price.

(2) To incorporate within the terms of any purchase and sale agreement any statement or representation with regard to the sale or financing of a vehicle which is false, deceptive, or misleading, including but not limited to terms that include as an added cost to the selling price of a vehicle an amount for licensing or transfer of title of that vehicle which is not actually due to the state, unless such amount has in fact been paid by the dealer prior to such sale.

(3) To set up, promote, or aid in the promotion of a plan by which vehicles are to be sold to a person for a consideration and upon further consideration that the purchaser agrees to secure one or more persons to participate in the plan by respectively making a similar purchase and in turn agreeing to secure one or more persons likewise to join in said plan, each purchaser being given the right to secure money, credits, goods or something of value, depending upon the number of persons joining the plan.

(4) To commit, allow, or ratify any act of "bushing" which is defined as follows: Taking from a prospective buyer of a vehicle a written order or offer to purchase, or a contract document signed by the buyer, which:

(a) Is subject to the dealer's, or his authorized representative's future acceptance, and the dealer fails or refuses within forty-eight hours, exclusive of Saturday, Sunday or legal holiday, and prior to any further negotiations with said buyer, to deliver to the buyer either the dealer's signed acceptance or all copies of the order, offer or contract document together with any initial payment or security made or given by the buyer, including but not limited to money, check, promissory note, vehicle keys, a trade-in or certificate of title to a trade-in; or

(b) Permits the dealer to renegotiate a dollar amount specified as trade-in allowance on a vehicle, delivered or to be delivered by the buyer as part of the purchase price, because of depreciation, obsolescence, or any other reason except substantial and latent mechanical defect that could not have been reasonably discovered at the time of the taking of said order, offer or contract: *Provided*, That said physical damage or mechanical defect shall have occurred before the dealer took possession of the vehicle; or

(c) Fails to comply with the obligation of any written warranty or guarantee given by the dealer requiring the furnishing of services or repairs within a reasonable time.

(5) To commit any offense relating to odometers, as such offenses are defined in RCW 46.37.540, 46.37.550, 46.37.560 and 46.37.570.

(6) For any vehicle dealer or vehicle salesman to refuse to furnish, upon request of a prospective purchaser, the name and address of the previous registered owner of any used vehicle offered for sale.

(7) To commit any other offense under RCW 46.37.423, 46.37.424, or 46.37.425.

(8) To commit any offense relating to a dealer's temporary license permit, including but not limited to failure to properly complete each such permit, or the issuance of more than one such permit on any one vehicle.

(9) For a dealer, salesman, or mobile home manufacturer, having taken an instrument or cash "on deposit" from a purchaser prior to the delivery of the bargained-for vehicle, to commingle said "on deposit" funds with assets of the dealer, salesman, or mobile home manufacturer instead of holding said "on deposit" funds as trustee in a separate trust account until the purchaser has taken delivery of the bargained-for vehicle. Failure, immediately upon receipt, to endorse "on deposit" instruments to such a trust account, or to set aside "on deposit" cash for deposit in such trust account, and failure to deposit such instruments or cash in such trust account by the close of banking hours on the day following receipt thereof, shall be evidence of intent to commit this unlawful practice: *Provided, however*, That a motor vehicle dealer may keep a separate trust account which equals his customary total customer deposits for vehicles for future delivery.

(10) Being a manufacturer to:

(a) Coerce or attempt to coerce any vehicle dealer to order or accept delivery of any vehicle or vehicles, parts or accessories, or any other commodities which shall not have been voluntarily ordered by the said vehicle dealer:

Provided, That recommendation, endorsement, exposition, persuasion, urging, or argument shall not be deemed to constitute coercion;

(b) Cancel, or, fail to renew the franchise or selling agreement of any vehicle dealer doing business in this state without fairly compensating the dealer at a fair going business value for his capital investment which shall include but not be limited to tools, equipment, and parts inventory, possessed by the dealer on the day he is notified of such cancellation or termination and which are still within the dealer's possession on the day the cancellation or termination is effective, if: (1) The capital investment shall have been entered into with reasonable and prudent business judgment for the purpose of fulfilling the franchise; and (2) Said cancellation or nonrenewal was not done in good faith. Good faith shall be defined as the duty of each party to any franchise to act in a fair and equitable manner towards each other, so as to guarantee one party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party: *Provided*, That recommendation, endorsement, exposition, persuasion, urging or argument shall not be deemed to constitute a lack of good faith.

(c) Encourage, aid, abet or teach a vehicle dealer to sell vehicles through any false, deceptive or misleading sales or financing practices including but not limited to those practices declared unlawful in this section;

(d) Coerce or attempt to coerce a vehicle dealer to engage in any practice forbidden in this section by either threats of actual cancellation or failure to renew the dealer's franchise agreement;

(e) Refuse to deliver any vehicle publicly advertised for immediate delivery to any duly licensed vehicle dealer having a franchise or contractual agreement for the retail sale of new and unused vehicles sold or distributed by such manufacturer within sixty days after such dealer's order shall have been received in writing unless caused by inability to deliver because of shortage or curtailment of material, labor, transportation or utility services, or to any labor or production difficulty, or to any cause beyond the reasonable control of the manufacturer.

(f) To provide under the terms of any warranty that a purchaser of any new or unused vehicle that has been sold, distributed for sale, or transferred into this state for resale by the vehicle manufacturer that any warranty claim on any item included as an integral part of the vehicle may only be made against the manufacturer of that item.

(8) Nothing in this section shall be construed to impair the obligations of a contract or to prevent a manufacturer, distributor, representative or any other person, whether or not licensed under this chapter, from requiring performance of a written contract entered into with any licensee hereunder, nor shall the requirement of such performance constitute a violation of any of the provisions of this section: *Provided, however*, Any such contract, or the terms thereof, requiring performance, shall have been theretofore freely entered into and executed between the contracting parties. [1977 1st ex.s. c 125 § 4; 1973 1st ex.s. c 132 § 18; 1969 c 112 § 1; 1967 ex.s. c 74 § 16.]

Chapter 46.71
AUTOMOTIVE REPAIR

Sections

46.71.010	Definitions.
46.71.020	Invoices—Requirements.
46.71.030	Replaced parts—Return to customer— Exceptions.
46.71.040	Estimate of costs—Alternatives—Customer's choice.
46.71.050	Certain repairman's remedies barred—Conditions.
46.71.060	Price estimates and invoices required to be kept for one year.
46.71.070	Unfair practices.

46.71.010 Definitions. For purposes of this chapter:

(1) "Automotive repairman" means a person who engages in the business of repairing and/or diagnosing malfunctions of motor vehicles for compensation; and

(2) "Automotive repairing" includes:

(a) All repairs to vehicles commonly performed in a repair shop by a motor vehicle mechanic including the installation, exchange, or repair of mechanical parts or units for any vehicle or the performance of any electrical or mechanical adjustment to any vehicle;

(b) All work performed in shops that are limited to any specialty within the automotive repair trade including but not limited to body, frame, front-end, brake repair, transmission, tune-up, and electrical repair work and muffler installation; and

(c) "Automotive repairing" should not include the change or repair of tires; the lubrication of vehicles; the installation of light bulbs, batteries, windshield wiper blades, and other minor accessories; the cleansing, adjustment, and replacement of spark plugs; the replacement of fan belts, oil and oil filters; and other minor services which are customarily performed by gasoline service stations. [1977 1st ex.s. c 280 § 1.]

46.71.020 Invoices—Requirements. All work done and all parts supplied by an automotive repairman, including all warranty work, shall be recorded on an invoice. If any used, rebuilt, or reconditioned parts are supplied the invoice shall clearly state the fact. One copy of the invoice shall be given to the customer and one copy of the invoice shall be retained by the automotive repairman. [1977 1st ex.s. c 280 § 2.]

46.71.030 Replaced parts—Return to customer—Exceptions. Upon request of the customer when the work order is taken, except for parts covered by a manufacturer's warranty, the automotive repairman shall return replaced parts to the customer at the time the work is completed.

If a customer requests the return of a part that must be returned to the manufacturer or distributor under the terms of a warranty agreement, the repairman shall offer to show the part to the customer at the time the work is completed. The repairman shall show the part to the customer when the work is completed if the customer accepts the offer. The repairman shall not be required to show a replaced part when no charge is being made for the replacement part. [1977 1st ex.s. c 280 § 3.]

46.71.040 Estimate of costs—Alternatives—Customer's choice. (1) If the price is estimated to exceed fifty dollars, the automotive repairman shall, prior to the commencement of supplying any parts or the performance of any labor, provide the customer a written estimate or the following choice of estimate alternatives:

"YOU ARE ENTITLED TO A WRITTEN PRICE ESTIMATE FOR THE REPAIRS YOU HAVE AUTHORIZED. YOU ARE ALSO ENTITLED TO REQUIRE THE REPAIRMAN TO OBTAIN YOUR ORAL OR WRITTEN CONSENT TO EXCEED THE WRITTEN PRICE ESTIMATE. YOUR SIGNATURE OR INITIALS WILL INDICATE YOUR SELECTION.

1. I request an estimate in writing before you begin repairs. Contact me if the price will exceed this estimate by more than ten percent.

2. Proceed with repairs but contact me if the price will exceed \$ ----- .

3. I do not want a written estimate.
----- "

These alternatives shall not be required when the customer's motor vehicle has been brought to the automotive repairman without face-to-face contact between the customer and the automotive repairman or the repairman's representative.

(2) If the customer signs or initials alternative 1 or if none of the alternatives is signed or initialed by the customer, the automotive repairman shall, prior to supplying any parts or performing any labor, give to the customer a written price estimate for the labor and parts necessary for the specific repair requested. The repairman may not charge for work done or parts supplied which are not a part of the written price estimate and may not charge the customer more than one hundred ten percent of the total shown on the written price estimate: *Provided*, That neither of these limitations shall apply if, prior to performing the additional labor and/or supplying the additional parts, the repairman obtains either the oral or written authorization of the customer to exceed the written price estimate. [1977 1st ex.s. c 280 § 4.]

46.71.050 Certain repairman's remedies barred—Conditions. A repairman who performs work or supplies parts which are not a part of the written price estimate without the oral or written consent of the customer shall be barred from asserting a possessory or chattel lien for the amount of the unauthorized parts or labor upon the motor vehicle. A repairman who supplies used, rebuilt, or reconditioned parts in violation of RCW 46.71.020 or who fails or refuses to return replaced parts as required by RCW 46.71.030 shall be barred from asserting a possessory or chattel lien for the amount charged for

that replacement part upon the motor vehicle. [1977 1st ex.s. c 280 § 5.]

46.71.060 Price estimates and invoices required to be kept for one year. Every automotive repairman shall retain and make available for inspection upon request true copies of the written price estimates and invoices required under RCW 46.71.020 and 46.71.040 for at least one year after the date on which the motor vehicle was repaired. [1977 1st ex.s. c 280 § 6.]

46.71.070 Unfair practices. The assertion of a possessory or chattel lien in violation of this chapter shall be an unfair practice under chapter 19.86 RCW. Notwithstanding RCW 46.64.050, no violation of this chapter shall give rise to criminal liability under that section. [1977 1st ex.s. c 280 § 7.]

Chapter 46.76

MOTOR VEHICLE TRANSPORTERS

Sections

46.76.065 Grounds for denial, suspension, or revocation of license.

46.76.065 Grounds for denial, suspension, or revocation of license. The following conduct shall be sufficient grounds pursuant to RCW 34.04.170 for the director or a designee to deny, suspend, or revoke the license of a motor vehicle transporter:

- (1) Using transporter plates for driveaway or towaway of any vehicle owned by such transporter;
- (2) Knowingly, as that term is defined in RCW 9A.08.010(1)(b), having possession of a stolen vehicle or a vehicle with a defaced, missing, or obliterated manufacturer's identification serial number;
- (3) Loaning transporter plates;
- (4) Using transporter plates for any purpose other than as provided under RCW 46.76.010; or
- (5) Violation of provisions of this chapter or of rules and regulations adopted relating to enforcement and proper operation of this chapter. [1977 1st ex.s. c 254 § 1.]

Chapter 46.80

MOTOR VEHICLE WRECKERS

Sections

46.80.005 Legislative declaration.
 46.80.010 Definitions.
 46.80.020 License required—Penalty.
 46.80.030 Application for license—Contents.
 46.80.070 Bond.
 46.80.080 Records to be kept.
 46.80.090 Reports to department of licensing—Record of title to accompany.
 46.80.100 Cancellation of bond, effect of.
 46.80.110 Refusal, suspension, revocation of license or assessment of civil fine.
 46.80.120 Repealed.
 46.80.150 Inspection of licensed premises and records.
 46.80.170 Violations—Penalties.
 46.80.900 Liberal construction.

46.80.005 Legislative declaration. The legislature finds and declares that the distribution and sale of vehicle parts in the state of Washington vitally affects the general economy of the state and the public interest and the public welfare, and that in order to promote the public interest and the public welfare and in the exercise of its police power, it is necessary to regulate and license motor vehicle wreckers and dismantlers, the buyers—for-resale, and the sellers of second-hand vehicle components doing business in Washington, in order to prevent the sale of stolen vehicle parts, to prevent frauds, impositions, and other abuses, and to preserve the investments and properties of the citizens of this state. [1977 1st ex.s. c 253 § 1.]

Severability—1977 1st ex.s. c 253: "If any provision of this 1977 amendatory act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the amendatory act and the applicability thereof to persons and circumstances shall not be affected thereby." [1977 1st ex.s. c 253 § 14.]

The foregoing annotation applies to RCW 46.80.005, 46.80.170, and 46.80.900, to the 1977 amendments to RCW 46.80.010, 46.80.020, 46.80.030, 46.80.070, 46.80.080, 46.80.090, 46.80.100, 46.80.110, and 46.80.150, and to the repeal of RCW 46.80.120.

46.80.010 Definitions. (1) "Motor vehicle wrecker," whenever used in this chapter, shall mean every person, firm, partnership, association, or corporation engaged in the business of buying, selling, or dealing in vehicles of a type required to be licensed under the laws of this state, for the purpose of wrecking, dismantling, disassembling, or substantially changing the form of any motor vehicle, or who buys or sells integral second-hand parts of component material thereof, in whole or in part, or who deals in second-hand motor vehicle parts.

(2) "Established place of business," whenever used in this chapter, shall mean a building or enclosure which the motor vehicle wrecker occupies either continuously or at regular periods and where his books and records are kept and business is transacted and which must conform with zoning regulations.

(3) "Major component part", whenever used in this chapter, shall include at least each of the following vehicle parts: (a) Engines and short blocks; (b) frame; (c) transmission and/or transfer case; (d) cab; (e) door; (f) front or rear differential; (g) front or rear clip; (h) quarter panel; (i) truck bed or box; (j) seat; (k) hood; and (l) bumper. The director may supplement this list by rule.

(4) "Wrecked vehicle", whenever used in this chapter, shall mean a vehicle which is disassembled or dismantled or a vehicle which is acquired with the intent to dismantle or disassemble and never again to operate as a vehicle, or a vehicle which has sustained such damage that its cost to repair exceeds the fair market value of a like vehicle which has not sustained such damage, or a damaged vehicle whose salvage value plus cost to repair equals or exceeds its fair market value, if repaired, or a vehicle which has sustained such damage or deterioration that it may not lawfully operate upon the highways of this state for which the salvage value plus cost to repair exceeds its fair market value, if repaired; further,

it is presumed that a vehicle is a wreck if it has sustained such damage or deterioration that it may not lawfully operate upon the highways of this state. [1977 1st ex.s. c 253 § 2; 1961 c 12 § 46.80.010. Prior: 1947 c 262 § 1; Rem. Supp. 1947 § 8326-40.]

Severability—1977 1st ex.s. c 253: See note following RCW 46.80.005.

46.80.020 License required—Penalty. It shall be unlawful for any motor vehicle wrecker, as defined herein, to engage in the business of wrecking motor vehicles or trailers without having first applied for and received a license from the department of motor vehicles authorizing him so to do. [1977 1st ex.s. c 253 § 3; 1971 ex.s. c 7 § 1; 1967 c 32 § 94; 1961 c 12 § 46.80.020. Prior: 1947 c 262 § 2; Rem. Supp. 1947 § 8326-41.]

Reviser's note: The "department of motor vehicles" redesignated "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Severability—1977 1st ex.s. c 253: See note following RCW 46.80.005.

46.80.030 Application for license—Contents. Application for a motor vehicle wrecker's license or renewal of a vehicle wrecker's license shall be made on a form for this purpose, furnished by the department of motor vehicles, and shall be signed by the motor vehicle wrecker or his authorized agent and shall include the following information:

(1) Name and address of the person, firm, partnership, association or corporation under which name the business is to be conducted;

(2) Names and residence address of all persons having an interest in the business or, if the owner is a corporation, the names and addresses of the officers thereof;

(3) Certificate of approval of the chief of police of any city or town having a population of over five thousand persons and in all other instances a member of the Washington state patrol certifying that:

(a) The applicant has an established place of business at the address shown on the application, and;

(b) In the case of a renewal of a vehicle wrecker's license, the applicant has been complying with the provisions of this chapter, as now or hereafter amended, and the provisions of Title 46 RCW, relating to registration and certificates of title: *Provided*, That the above certifications in any instance can be made by an authorized representative of the department of motor vehicles;

(4) Any other information that the department may require. [1977 1st ex.s. c 253 § 4; 1971 ex.s. c 7 § 2; 1967 ex.s. c 13 § 1; 1967 c 32 § 95; 1961 c 12 § 46.80-.030. Prior: 1947 c 262 § 3; Rem. Supp. 1947 § 8326-42.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Severability—1977 1st ex.s. c 253: See note following RCW 46.80.005.

46.80.070 Bond. Before issuing a motor vehicle wrecker's license, the department shall require the applicant to file with said department a surety bond in the amount of one thousand dollars, running to the state

of Washington and executed by a surety company authorized to do business in the state of Washington. Such bond shall be approved as to form by the attorney general and conditioned that such wrecker shall conduct his business in conformity with the provisions of this chapter. Any person who shall have suffered any loss or damage by reason of fraud, carelessness, neglect, violation of the terms of this chapter, or misrepresentation on the part of the wrecking company, shall have the right to institute an action for recovery against such motor vehicle wrecker and surety upon such bond: *Provided*, That the aggregate liability of the surety to all persons shall in no event exceed the amount of the bond. [1977 1st ex.s. c 253 § 5; 1971 ex.s. c 7 § 5; 1967 c 32 § 98; 1961 c 12 § 46.80.070. Prior: 1947 c 262 § 7; Rem. Supp. 1947 § 8326-46.]

Severability—1977 1st ex.s. c 253: See note following RCW 46.80.005.

46.80.080 Records to be kept. (1) Every motor vehicle wrecker shall maintain books or files in which he shall keep a record and a description of:

(a) Every vehicle wrecked, dismantled, disassembled, or substantially altered by him; and

(b) Every major component part acquired by him; together with a bill of sale signed by a seller whose identity has been verified and the name and address of the person, firm, or corporation from whom he purchased the vehicle or part: *Provided*, That major component parts shall be further identified by the vehicle identification number of the vehicle from which the part came.

(2) Such record shall also contain the following data regarding the wrecked or acquired vehicle or vehicle which is the source of a major component part:

(a) The certificate of title number (if previously titled in this or any other state);

(b) Name of state where last registered;

(c) Number of the last license number plate issued;

(d) Name of vehicle;

(e) Motor or identification number and serial number of the vehicle;

(f) Date purchased;

(g) Disposition of the motor and chassis;

(h) Yard number assigned by the licensee to the vehicle or major component part which shall also appear on the identified vehicle or part; and

(i) Such other information as the department may require.

(3) Such records shall also contain a bill of sale signed by the seller for other minor component parts acquired by the licensee, identifying the seller by name, address, and date of sale.

(4) Such records shall be maintained by the licensee at his established place of business for a period of three years from the date of acquisition.

(5) Such record shall be subject to inspection at all times during regular business hours by members of the police department, sheriff's office, members of the Washington state patrol, or officers or employees of the department.

(6) A motor vehicle wrecker shall also maintain a similar record of all disabled vehicles that have been towed or transported to the motor vehicle wrecker's place of business or to other places designated by the owner of the vehicle or his representative. This record shall specify the name and description of the vehicle, name of owner, number of license plate, condition of the vehicle and place to which it was towed or transported. [1977 1st ex.s. c 253 § 6; 1971 ex.s. c 7 § 6; 1967 c 32 § 99; 1961 c 12 § 46.80.080. Prior: 1947 c 262 § 8; Rem. Supp. 1947 § 8326-47.]

Severability—1977 1st ex.s. c 253: See note following RCW 46.80.005.

46.80.090 Reports to department of licensing—Record of title to accompany. Within thirty days after a vehicle has been acquired by the motor vehicle wrecker it shall be the duty of such motor vehicle wrecker to furnish a written report to the department on forms furnished by the department. This report shall be in such form as the department shall prescribe and shall be accompanied by the certificate of title, if the vehicle has been last registered in a state which issues a certificate, or a record of registration if registered in a state which does not issue a certificate of title. No motor vehicle wrecker shall acquire a vehicle without first obtaining such record or title. It shall be the duty of the motor vehicle wrecker to furnish a monthly report of all vehicles wrecked, dismantled, disassembled, or substantially changed in form by him. This report shall be made on forms prescribed by the department and contain such information as the department may require. This statement shall be signed by the motor vehicle wrecker or his authorized representative and the facts therein sworn to before a notary public, or before an officer or employee of the department of motor vehicles designated by the director to administer oaths or acknowledge signatures, pursuant to RCW 46.01.180. [1977 1st ex.s. c 253 § 7; 1971 ex.s. c 7 § 7; 1967 c 32 § 100; 1961 c 12 § 46.80-.090. Prior: 1947 c 262 § 9; Rem. Supp. 1947 § 8326-48.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Severability—1977 1st ex.s. c 253: See note following RCW 46.80.005.

46.80.100 Cancellation of bond, effect of. If, after issuing a motor vehicle wrecker's license, the bond is canceled by the surety in a method provided by law, the department shall immediately notify the principal covered by such bond by registered mail and afford him the opportunity of obtaining another bond before the termination of the original and should such principal fail, neglect or refuse to obtain such replacement, the director may cancel or suspend the motor vehicle wrecker's license which has been issued to him under the provisions of this chapter. [1977 1st ex.s. c 253 § 8; 1967 c 32 § 101; 1961 c 12 § 46.80.100. Prior: 1947 c 262 § 10; Rem. Supp. 1947 § 8326-49.]

Severability—1977 1st ex.s. c 253: See note following RCW 46.80.005.

46.80.110 Refusal, suspension, revocation of license or assessment of civil fine. The director or a designee may, pursuant to the provisions of chapter 34.04 RCW, by order deny, suspend, or revoke the license of any motor vehicle wrecker, or assess a civil fine of up to five hundred dollars for each violation, if he finds that the applicant or licensee has:

(1) Acquired a vehicle or major component part other than by first obtaining title or other documentation as provided by this chapter;

(2) Wilfully misrepresented the physical condition of any motor or integral part of a motor vehicle;

(3) Sold, had in his possession, or disposed of a motor vehicle or trailer or any part thereof when he knows that such vehicle or part has been stolen, or appropriated without the consent of the owner;

(4) Sold, bought, received, concealed, had in his possession, or disposed of a motor vehicle or trailer or part thereof having a missing, defaced, altered, or covered manufacturer's identification number, unless approved by a law enforcement officer;

(5) Committed forgery or misstated a material fact on any title, registration, or other document covering a vehicle that has been reassembled from parts obtained from the disassembling of other vehicles;

(6) Committed any dishonest act or omission which the director has reason to believe has caused loss or serious inconvenience as a result of a sale of a motor vehicle, trailer or part thereof;

(7) Failed to comply with any of the provisions of this chapter, as now or hereafter amended, or with any of the rules and regulations adopted thereunder, or with any of the provisions of Title 46 RCW relating to registration and certificates of title of vehicles;

(8) Procured a license fraudulently or dishonestly or that such license was erroneously issued. [1977 1st ex.s. c 253 § 9; 1971 ex.s. c 7 § 8; 1967 ex.s. c 13 § 3; 1967 c 32 § 102; 1961 c 12 § 46.80.110. Prior: 1947 c 262 § 11; Rem. Supp. 1947 § 8326-50.]

Severability—1977 1st ex.s. c 253: See note following RCW 46.80.005.

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

46.80.150 Inspection of licensed premises and records. It shall be the duty of the chiefs of police in cities having a population of over five thousand persons, and in all other cases members of the Washington state patrol, to make periodic inspection of the motor vehicle wrecker's licensed premises and records provided for in this chapter during normal business hours, and furnish a certificate of inspection to the department in such manner as may be determined by the department: *Provided*, That the above inspection in any instance can be made by an authorized representative of the department. [1977 1st ex.s. c 253 § 10; 1971 ex.s. c 7 § 10; 1967 ex.s. c 13 § 5; 1967 c 32 § 105; 1961 c 12 § 46.80.150. Prior: 1947 c 262 § 15; Rem. Supp. 1947 § 8326-54.]

Severability—1977 1st ex.s. c 253: See note following RCW 46.80.005.

46.80.170 Violations—Penalties. It shall be a gross misdemeanor for any person to violate any of the provisions of this chapter or the rules and regulations promulgated as provided under this chapter, and any person so convicted shall be punished by imprisonment for not less than thirty days or more than one year in jail or by a fine of one thousand dollars. [1977 1st ex.s. c 253 § 11.]

Severability—1977 1st ex.s. c 253: See note following RCW 46.80.005.

46.80.900 Liberal construction. The provisions of this chapter shall be liberally construed to the end that traffic in stolen vehicle parts may be prevented, and irresponsible, unreliable, or dishonest persons may be prevented from engaging in the business of wrecking motor vehicles or selling used vehicle parts in this state and reliable persons may be encouraged to engage in businesses of wrecking or reselling vehicle parts in this state. [1977 1st ex.s. c 253 § 13.]

Severability—1977 1st ex.s. c 253: See note following RCW 46.80.005.

Chapter 46.81

TRAFFIC SAFETY EDUCATION COURSES

Sections

46.81.005	Legislative declaration.
46.81.010	Definitions.
46.81.020	Administration of program—Powers and duties of school officials.
46.81.070	Fiscal support—Reimbursement to school districts—Enrollment fees—Deposit.

46.81.005 Legislative declaration. It is the purpose of *this 1977 amendatory act to provide the students of the state with an improved quality traffic safety education program and to develop in the youth of this state a knowledge of the motor vehicle laws, an acceptance of personal responsibility on the public highways, an understanding of the causes and consequences of traffic accidents, and to provide training in the skills necessary for the safe operation of motor vehicles; to provide financial assistance to the various school districts while permitting them to achieve economies through options in the choice of course content and methods of instructions by adopting in whole or with modifications, a program prepared by the office of the superintendent of public instruction, and keeping to a minimum the amount of estimating, bookkeeping and reporting required of said school districts for financial reimbursement for such traffic safety education programs. [1977 c 76 § 1.]

***Reviser's note:** "this 1977 amendatory act" consists of RCW 46.81.005 and the 1977 amendments to RCW 46.81.010, 46.81.020, and 46.81.070.

Severability—1977 c 76: "If any provision of this 1977 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." [1977 c 76 § 5.]

46.81.010 Definitions. The following words and phrases whenever used in chapter 46.81 RCW shall have the following meaning:

(1) "Superintendent" or "state superintendent" shall mean the superintendent of public instruction.

(2) "Traffic safety education course" shall mean an accredited course of instruction in traffic safety education which shall consist of two phases, classroom instruction, and laboratory experience. "Laboratory experience" shall include on-street, driving range, or simulator experience or some combination thereof. Each phase shall meet basic course requirements which shall be established by the superintendent of public instruction and each part of said course shall be taught by a qualified teacher of traffic safety education. Any portions of the course may be taught after regular school hours or on Saturdays as well as on regular school days or as a summer school course, at the option of the local school districts.

(3) "Qualified teacher of traffic safety education" shall mean an instructor certificated under the provisions of chapter 28A.70 RCW and certificated by the superintendent of public instruction to teach either the classroom phase or the laboratory phase of the traffic safety education course, or both, under regulations promulgated by the superintendent: *Provided*, That the laboratory experience phase of the traffic safety education course may be taught by instructors certificated under rules promulgated by the superintendent of public instruction, exclusive of any requirement that the instructor be certificated under the provisions of chapter 28A.70 RCW. Professional instructors certificated under the provisions of chapter 46.82 RCW, and participating in this program, shall be subject to reasonable qualification requirements jointly adopted by the superintendent of public instruction and the director of the department of motor vehicles.

(4) "Realistic level of effort" for the purpose of *this 1977 amendatory act means the classroom and laboratory student learning experiences considered acceptable to the superintendent of public instruction that must be satisfactorily accomplished by the student in order to successfully complete the traffic safety education course. [1977 c 76 § 2; 1969 ex.s. c 218 § 1; 1963 c 39 § 2.]

Reviser's notes: (1) The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

(2) "this 1977 amendatory act", see note following RCW 46.81.005.

Severability—1977 c 76: See note following RCW 46.81.005.

46.81.020 Administration of program—Powers and duties of school officials. (1) The superintendent of public instruction is authorized to establish a section of traffic safety education, and through such section shall: Define a "realistic level of effort" required to provide an effective traffic safety education course, establish a level of driving competency required of each student to successfully complete the course, and ensure that an effective state-wide program is implemented and sustained, administer, supervise, and develop the traffic safety education program and shall assist local school districts in the conduct of their traffic safety education programs. The superintendent shall adopt necessary rules and regulations governing the operation and scope of the traffic safety education program; and each school district shall

submit a report to the superintendent on the condition of its traffic safety education program: *Provided*, That the superintendent shall monitor the quality of the program and carry out the purposes of this chapter.

(2) The board of directors of any school district maintaining a secondary school which includes any of the grades 10 to 12, inclusive, may establish and maintain a traffic safety education course. If a school district elects to offer a traffic safety education course and has within its boundaries a private accredited secondary school which includes any of the grades 10 to 12, inclusive, at least one class in traffic safety education shall be given at times other than regular school hours if there is sufficient demand therefor.

(3) The board of directors of a school district, or combination of school districts, may contract with any drivers' school licensed under the provisions of chapter 46.82 RCW to teach the laboratory phase of the traffic safety education course. Instructors provided by any such contracting drivers' school must be properly qualified teachers of traffic safety education under the joint qualification requirements adopted by the superintendent of public instruction and the director of the department of motor vehicles. [1977 c 76 § 3; 1969 ex.s. c 218 § 2; 1963 c 39 § 3.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Severability—1977 c 76: See notes following RCW 46.81.005.

46.81.070 Fiscal support—Reimbursement to school districts—Enrollment fees—Deposit. (1) Subject to RCW 46.81.060 each school district shall be reimbursed from the traffic safety education account: *Provided*, That the state superintendent shall determine the per pupil reimbursement amount for the traffic safety education course to be funded by the state. Each school district offering an approved standard traffic safety education course shall be reimbursed or granted an amount up to the level established by the superintendent of public instruction as may be provided from the traffic safety education account.

(2) The board of directors of any school district or combination of school districts may establish a traffic safety education fee, which fee when imposed shall be required to be paid by any duly enrolled student in any such school district prior to or while enrolled in a traffic safety education course. Traffic safety education fees collected by a school district shall be deposited with the county treasurer to the credit of such school district, to be used to pay costs of the traffic safety education course. [1977 c 76 § 4; 1969 ex.s. c 218 § 6; 1967 ex.s. c 147 § 5; 1963 c 39 § 8.]

Severability—1977 c 76: See notes following RCW 46.81.005.

Traffic safety commission: Chapter 43.59 RCW.

Chapter 46.85
RECIPROCAL OR PROPORTIONAL
REGISTRATION OF VEHICLES

Sections

46.85.030 Reciprocity commission created—Entry into multi-state proportional registration agreement, International Registration Plan.

46.85.030 Reciprocity commission created—Entry into multistate proportional registration agreement, International Registration Plan. (1) The reciprocity commission, hereby created, shall consist of the director of motor vehicles, the chief of the Washington state patrol, a designee of the state highway commission and, ex officio, the chairman and vice chairman of the legislative transportation committee, or their duly designated representatives. Members of the western interstate highway policy committee from the state of Washington shall be advisory members of the reciprocity commission, and may attend meetings and conferences of the commission in such capacity, but shall not vote as members thereof. The department shall provide such assistance and facilities to the commission as it may require. The members of the commission shall receive no additional compensation for their services except that they shall be allowed reimbursement for travel expenses incurred in the performance of their official duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended to be paid from funds made available for the use of the commission. The commission shall have the authority to execute agreements, arrangements or declarations to carry out the provisions of this chapter.

(2) The reciprocity commission may enter into a multistate proportional registration agreement which prescribes a different definition of any terms defined in chapter 46.85 RCW. The agreement definition shall control unless appropriate exception is taken thereto.

If the reciprocity commission enters into a multistate proportional registration agreement which prescribes a different procedure for vehicle identification, the agreement procedures shall control.

If the reciprocity commission enters into a multistate proportional registration agreement which requires this state to perform acts in a quasi agency relationship, the reciprocity commission may collect and forward applicable registration fees and applications to other jurisdictions on behalf of the applicant or on behalf of another jurisdiction and may take such other action as will facilitate the administration of such agreement.

If the reciprocity commission enters into a multistate proportional registration agreement which prescribes procedures applicable to vehicles not specifically described in chapter 46.85 RCW, such as but not limited to "owner-operator" or "rental" vehicles, it shall promulgate rules accomplishing the procedures prescribed in such agreement.

If the reciprocity commission enters into a multistate proportional registration agreement which prohibits the collection of minimum fees provided for in this chapter or elsewhere for the ownership or operation of motor

vehicles, the prohibitions contained in the agreement shall control.

It is the purpose and intent of this subsection to facilitate the membership in the International Registration Plan and at the same time allow the reciprocity commission to continue to participate in such agreements and compacts as may be necessary and desirable in addition to the International Registration Plan: *Provided*, That prior to the reciprocity commission entering into the International Registration Plan, the commission, with the assistance of the department of motor vehicles, shall conduct a fiscal impact study and report the findings of the study to the legislative transportation committee by October 15, 1977. [1977 1st ex.s. c 92 § 1; 1975-'76 2nd ex.s. c 34 § 137; 1967 c 32 § 113; 1963 c 106 § 3.]

Reviser's notes: (1) The "director of motor vehicles" redesignated the "director of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

(2) Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "state highway commission" means department of transportation; see RCW 47.04.015.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Chapter 46.90

WASHINGTON MODEL TRAFFIC ORDINANCE

Sections

- 46.90.300 Certain RCW sections adopted by reference.
- 46.90.406 Certain RCW sections adopted by reference.
- 46.90.415 Certain RCW sections adopted by reference.
- 46.90.427 Certain RCW sections adopted by reference.
- 46.90.463 Certain RCW sections adopted by reference.
- 46.90.700 Certain RCW sections adopted by reference.

46.90.300 Certain RCW sections adopted by reference. The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.12.070, 46.12.080, 46.12.090, 46.12.101, 46.12.260, 46.12.300, 46.12.310, 46.12.320, 46.12.330, 46.12.340, 46.12.350, 46.16.010, 46.16.025, 46.16.030, *46.16.106, 46.16.135, 46.16.137, 46.16.138, 46.16.140, 46.16.145, 46.16.170, 46.16.180, 46.16.240, 46.16.260, 46.16.290, 46.16.380, 46.16.500, 46.16.505, 46.20.011, 46.20.021, 46.20.025, 46.20.027, 46.20.031, 46.20.041, 46.20.045, 46.20.190, 46.20.220, 46.20.308, 46.20.336, 46.20.342, 46.20.343, 46.20.344, 46.20.391, 46.20.410, 46.20.420, 46.20.430, 46.20.440, 46.20.500, 46.20.022, 46.32.060, 46.32.070, 46.37.010, 46.37.020, 46.37.030, 46.37.040, 46.37.050, 46.37.060, 46.37.070, 46.37.080, 46.37.090, 46.37.100, 46.37.110, 46.37.120, 46.37.130, 46.37.140, 46.37.150, 46.37.160, 46.37.170, 46.37.180, 46.37.184, 46.37.185, 46.37.186, 46.37.187, 46.37.188, 46.37.190, 46.37.200, 46.37.210, 46.37.220, 46.37.230, 46.37.240, **46.37.250, 46.37.260, 46.37.270, 46.37.280, 46.37.290, 46.37.300, 46.37.310, 46.37.340, 46.37.351, 46.37.360, 46.37.365, **46.37.370, 46.37.380, 46.37.390, 46.37.400, 46.37.410, 46.37.420, 46.37.425, 46.37.430, 46.37.440, 46.37.450, 46.37.460, 46.37.480,

46.37.490, 46.37.500, 46.37.510, 46.37.520, 46.37.530, 46.37.535, 46.37.540, 46.37.550, 46.37.560, 46.37.570, 46.37.590, 46.37.600, 46.44.010, 46.44.020, 46.44.030, 46.44.034, 46.44.036, 46.44.037, 46.44.042, 46.44.047, 46.44.050, 46.44.060, 46.44.070, 46.44.090, 46.44.091, 46.44.092, 46.44.093, 46.44.095, 46.44.096, 46.44.100, 46.44.120, 46.44.130, 46.44.140, 46.44.041, 46.48.170, 46.52.010, 46.52.020, 46.52.030, 46.52.040, 46.52.070, 46.52.080, 46.52.088, 46.52.090, 46.52.100, 46.52.119, 46.52.145, and 46.80.010. [1977 1st ex.s. c 60 § 1; 1975 1st ex.s. c 54 § 50.]

Reviser's note: *(1) RCW 46.16.006 was repealed by 1977 1st ex.s. c 22 § 9.

** (2) RCW 46.37.250 and 46.37.370 were repealed by 1977 1st ex.s. c 355 § 54.

46.90.406 Certain RCW sections adopted by reference. The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.61.015, 46.61.020, 46.61.025, 46.61.030, 46.61.035, 46.61.050, 46.61.055, 46.61.060, 46.61.065, 46.61.070, 46.61.072, 46.61.075, and 46.61.080. [1977 1st ex.s. c 60 § 2; 1975 1st ex.s. c 54 § 64.]

46.90.415 Certain RCW sections adopted by reference. The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.61.085, 46.61.100, 46.61.105, 46.61.110, 46.61.115, 46.61.120, 46.61.125, 46.61.130, 46.61.135, 46.61.140, 46.61.145, 46.61.150, 46.61.155, 46.61.160, 46.61.180, 46.61.185, 46.61.190, 46.61.195, 46.61.200, 46.61.202, 46.61.205, 46.61.210, 46.61.215, 46.61.230, 46.61.235, 46.61.240, 46.61.261, 46.61.264, 46.61.266, and 46.61.269. [1977 1st ex.s. c 60 § 3; 1975 1st ex.s. c 54 § 67.]

46.90.427 Certain RCW sections adopted by reference. The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.61.300, 46.61.305, 46.61.310, 46.61.315, 46.61.340, 46.61.345, 46.61.350, 46.61.355, 46.61.365, 46.61.370, 46.61.375, 46.61.385, 46.61.400, 46.61.415, 46.61.425, 46.61.427, 46.61.435, 46.61.440, 46.61.445, 46.61.450, 46.61.455, 46.61.460, 46.61.465, 46.61.475, 46.61.500, 46.61.506, 46.61.515, 46.61.520, 46.61.525, 46.61.530, 46.61.535, 46.61.540, 46.61.560, 46.61.570, and 46.61.575. [1977 1st ex.s. c 60 § 4; 1975 1st ex.s. c 54 § 71.]

46.90.463 Certain RCW sections adopted by reference. The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.61.580, 46.61.600, 46.61.605, 46.61.606, 46.61.608, 46.61.610, 46.61.611, 46.61.612, 46.61.614, 46.61.615, 46.61.620, 46.61.625, 46.61.630, 46.61.635,

46.61.640, 46.61.645, 46.61.655, 46.61.660, 46.61.665, 46.61.670, 46.61.675, 46.61.680, and 46.61.685. [1977 1st ex.s. c 60 § 5; 1975 1st ex.s. c 54 § 83.]

46.90.700 Certain RCW sections adopted by reference. The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.64.010, 46.64.015, 46.64.017, 46.64.020, 46.64.025, 46.64.030, and 46.64.048. [1977 1st ex.s. c 60 § 6; 1975 1st ex.s. c 54 § 111.]

**Title 47
PUBLIC HIGHWAYS AND
TRANSPORTATION**

(Formerly: Public Highways)

Chapters

- 47.01 Department of transportation.
- 47.02 Highway commission buildings.
- 47.04 General provisions.
- 47.05 Priority programming for highway development.
- 47.12 Acquisition and disposition of state highway property.
- 47.16 Primary highway routes.
- 47.17 State highway routes.
- 47.20 Miscellaneous projects.
- 47.24 City streets as part of state highways.
- 47.26 Development in urban areas—Urban arterials.
- 47.28 Construction and maintenance of highways.
- 47.36 Traffic control devices.
- 47.42 Highway advertising control act—Scenic vistas act.
- 47.48 Closing highways and restricting traffic.
- 47.52 Limited access facilities.
- 47.56 State toll bridges, tunnels and ferries.
- 47.60 Puget Sound ferry and toll bridge system.
- 47.68 Aeronautics.
- 47.72 Navigation canals.
- 47.98 Construction.

Chapter 47.01

DEPARTMENT OF TRANSPORTATION

(Formerly: Highway Commission)

Sections

- 47.01.010 Repealed.
- 47.01.011 Legislative declaration.
- 47.01.020 Repealed.
- 47.01.021 Definitions.
- 47.01.030 Repealed.
- 47.01.031 Department created—Transfer of powers, duties, and functions.
- 47.01.040 Repealed.
- 47.01.041 Secretary of transportation—Appointment, salary, removal.

- 47.01.050 Repealed.
- 47.01.051 Commission created—Appointment of members—Terms—Qualifications—Removal.
- 47.01.060 Repealed.
- 47.01.061 Commission—Procedure—Compensation of members.
- 47.01.070 Director's and commissioner's prior assignments may be delegated.
- 47.01.071 Commission—Functions, powers, and duties.
- 47.01.080 Repealed.
- 47.01.081 Department—Organization—Assistant and deputy secretaries—Appointment, exempt from civil service, salaries.
- 47.01.090 Repealed.
- 47.01.091 Advisory councils.
- 47.01.100 Repealed.
- 47.01.101 Secretary—Authority and duties.
- 47.01.110 Repealed.
- 47.01.111 Transfer of personnel to department—Exception.
- 47.01.120 Repealed.
- 47.01.121 Continuation of rules and regulations.
- 47.01.130 Repealed.
- 47.01.131 Continuation of state services to department.
- 47.01.141 Commission's annual report to legislature and governor.
- 47.01.160 Repealed.
- 47.01.220 Commission—Report to legislature on highway needs through legislative transportation committee and senate and house transportation committees.
- 47.01.250 Consultation with designated state officials—Report to governor and legislature.

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

47.01.011 Legislative declaration. The legislature hereby recognizes the following imperative needs within the state: To create a state-wide transportation development plan which identifies present status and sets goals for the future; to coordinate transportation modes; to promote and protect land use programs required in local, state and federal law; to coordinate transportation with the economic development of the state; to supply a broad framework in which regional, metropolitan, and local transportation needs can be related; to facilitate the supply of federal and state aid to those areas which will most benefit the state as a whole; to provide for public involvement in the transportation planning and development process; to administer programs within the jurisdiction of this title relating to the safety of the state's transportation systems; and to coordinate and implement national transportation policy with the state transportation planning program.

The legislature finds and declares that placing all elements of transportation in a single department is fully consistent with and shall in no way impair the use of moneys in the motor vehicle fund exclusively for highway purposes.

Through this chapter, a unified department of transportation is created. To the jurisdiction of this department will be transferred the present powers, duties, and functions of the department of highways, the highway commission, the toll bridge authority, the aeronautics commission, and the canal commission, and the transportation related powers, duties, and functions of the planning and community affairs agency. [1977 1st ex.s. c 151 § 1.]

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

47.01.021 Definitions. As used in this title unless the context indicates otherwise:

- (1) "Department" means the department of transportation created in RCW 47.01.031;
- (2) "Commission" means the transportation commission created in RCW 47.01.051;
- (3) "Secretary" means the secretary of transportation as provided for in RCW 47.01.041. [1977 1st ex.s. c 151 § 2.]

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

47.01.031 Department created—Transfer of powers, duties, and functions. (1) There is created a department of state government to be known as the department of transportation.

(2) All powers, duties, and functions vested by law in the department of highways, the state highway commission, the director of highways, the Washington toll bridge authority, the aeronautics commission, the director of aeronautics, and the canal commission, and the transportation related powers, duties, and functions of the planning and community affairs agency, are transferred to the jurisdiction of the department, except those powers, duties, and functions which are expressly directed elsewhere in *this or in any other act of the 1977 legislature.

(3) The urban arterial board and the board of pilotage commissioners are transferred to the jurisdiction of the department for their staff support and administration: *Provided*, That nothing in this section shall be construed as transferring any policy making powers of the urban arterial board or the board of pilotage commissioners to the transportation commission or the department of transportation. [1977 1st ex.s. c 151 § 3.]

*Reviser's note: For contents of "this act" (1977 1st ex.s. c 151), see note following RCW 47.98.070.

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

47.01.041 Secretary of transportation—Appointment, salary, removal. The executive head of the department of transportation shall be the secretary of transportation, who shall be appointed by the transportation commission, and shall be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. The secretary shall be an ex officio member of the commission without a vote. The secretary shall be the chief executive officer of the commission responsible only to it, and shall be guided by policies established by it. The secretary shall serve until removed by the commission, but only for incapacity, incompetence, neglect of duty, malfeasance in office, or failure to carry out the commission's policies. Before a motion for dismissal shall be acted on by the commission, the secretary shall be granted a hearing on formal written charges before the full commission. An action by the

commission to remove the secretary shall be final. [1977 1st ex.s. c 151 § 4.]

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

47.01.051 Commission created—Appointment of members—Terms—Qualifications—Removal.

There is hereby created a transportation commission, which shall consist of seven members appointed by the governor, with the consent of the senate. The present five members of the highway commission shall serve as five initial members of the transportation commission until their terms of office as highway commission members would have expired. The additional two members provided herein for the transportation commission shall be appointed for initial terms to expire on June 30, 1982, and June 30, 1983. Thereafter all terms shall be for six years. No elective state official or state officer or state employee shall be a member of the commission, and not more than four members of the commission shall at the time of appointment or thereafter during their respective terms of office be members of the same major political party. At the time of appointment or thereafter during their respective terms of office, four members of the commission shall reside in the western part of the state and three members shall reside in the eastern part of the state as divided north and south by the summit of the Cascade mountains. No more than two members of the commission shall reside in the same county. Commissioners shall not be removed from office by the governor before the expiration of their terms unless for a disqualifying change of residence or for cause based upon a determination of incapacity, incompetence, neglect of duty, or malfeasance in office by the superior court of the state of Washington in and for Thurston county upon petition and show cause proceedings duly brought therefor in said court and directed to the commissioner in question. No member shall be appointed for more than two consecutive terms. [1977 1st ex.s. c 151 § 5.]

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

47.01.061 Commission—Procedure—Compensation of members. The commission shall meet at such times as it deems advisable but at least once every month. It may adopt its own rules and regulations and may establish its own procedure. It shall act collectively in harmony with recorded resolutions or motions adopted by majority vote of at least four members. The commission may appoint an administrative secretary, and shall elect one of its members chairman for a term of one year. The chairman shall be able to vote on all matters before the commission.

Each member of the commission shall receive compensation of sixty dollars per day for each day actually spent in the performance of duties, and actual necessary traveling and other expenses in going to, attending, and returning from meetings of the commission, and actual and necessary traveling and other expenses incurred in the discharge of such duties as may be requested by a

majority vote of the commission or by the secretary of transportation, but in no event shall a commissioner be compensated in any year for more than one hundred twenty days, except the chairman of the commission who may be paid compensation for not more than one hundred fifty days. Service on the commission shall not be considered as service credit for the purposes of any public retirement system. [1977 1st ex.s. c 151 § 6.]

47.01.070 Director's and commissioner's prior assignments may be delegated. In all situations wherein the director of highways, the director of aeronautics or any one of their designees, or any member of the highway commission, the toll bridge authority, the aeronautics commission, or the canal commission or any one of their designees was on September 21, 1977, designated or serving as a member of any board, commission, committee, or authority, the chairman of the transportation commission or the chairman's designee who shall be an employee of the department of transportation, shall hereafter determine who shall serve as such member. [1977 1st ex.s. c 151 § 27; 1961 c 13 § 47.01.070. Prior: 1951 c 247 § 5. Formerly RCW 43.27.120.]

47.01.071 Commission—Functions, powers, and duties. The transportation commission shall have the following functions, powers, and duties:

(1) To propose policies to be adopted by the legislature designed to assure the development and maintenance of a comprehensive and balanced state-wide transportation system which will meet the needs of the people of this state for safe and efficient transportation services. Wherever appropriate the policies shall provide for the use of integrated, intermodal transportation systems to implement the social, economic, and environmental policies, goals, and objectives of the people of the state, and especially to conserve nonrenewable natural resources including land and energy. To this end the commission shall:

(a) Develop transportation policies which are based on the policies, goals, and objectives expressed and inherent in existing state laws;

(b) Inventory the adopted policies, goals, and objectives of the local and area-wide governmental bodies of the state and define the role of the state, regional, and local governments in determining transportation policies, in transportation planning, and in implementing the state transportation plan;

(c) Propose a transportation policy for the state, and after notice and public hearings, submit the proposal to the legislative transportation committee and the senate and house transportation committees by January 1, 1978, for consideration in the next legislative session;

(d) Establish a procedure for review and revision of the state transportation policy and for submission of proposed changes to the legislature;

(e) To integrate the state-wide transportation plan with the needs of the elderly and handicapped, and to coordinate federal and state programs directed at assisting local governments to answer such needs;

(2) To establish the policy of the department to be followed by the secretary on each of the following items:

(a) To provide for the effective coordination of state transportation planning with national transportation policy, state and local land use policies, and local and regional transportation plans and programs;

(b) To provide for public involvement in transportation designed to elicit the public's views both with respect to adequate transportation services and appropriate means of minimizing adverse social, economic, environmental, and energy impact of transportation programs;

(c) To provide for the administration of grants in aid and other financial assistance to counties and municipal corporations for transportation purposes;

(d) To provide for the management, sale, and lease of property or property rights owned by the department which are not required for transportation purposes;

(3) To direct the secretary to prepare and submit to the commission a comprehensive and balanced state-wide transportation plan which shall be based on the transportation policy adopted by the legislature and applicable state and federal laws. After public notice and hearings, the commission shall adopt the plan and submit it to the legislative transportation committee and to the house and senate standing committees on transportation before January 1, 1980, for consideration in the next legislative session. The plan shall be reviewed and revised at the next regular session of the legislature and biennially thereafter. A preliminary plan shall be submitted to such committees by January 1, 1979.

The plan shall take into account federal law and regulations relating to the planning, construction, and operation of transportation facilities;

(4) To approve and propose to the governor and to the legislature prior to the convening of each regular session a recommended budget for the operation of the department and for carrying out the program of the department for the ensuing biennium. The proposed budget shall separately state the appropriations to be made from the motor vehicle fund for highway purposes in accordance with constitutional limitations and appropriations and expenditures to be made from the general fund, or accounts thereof, and other available sources for other operations and programs of the department;

(5) To review and authorize all departmental requests for legislation;

(6) To approve the issuance and sale of all bonds authorized by the legislature for capital construction of state highways, toll facilities, Columbia Basin county roads (for which reimbursement to the motor vehicle fund has been provided), urban arterial projects, and aviation facilities;

(7) To adopt such rules, regulations, and policy directives as may be necessary to carry out reasonably and properly those functions expressly vested in the commission by statute;

(8) To delegate any of its powers to the secretary of transportation whenever it deems it desirable for the efficient administration of the department and consistent with the purposes of this title;

(9) To exercise such other specific powers and duties as may be vested in the transportation commission by

this or any other provision of law. [1977 1st ex.s. c 151 § 7.]

Commission—Additional duties—Study and proposed budget:

"(1) The transportation commission through the secretary of transportation, and in conjunction with the legislative transportation committee and the house and senate transportation committees, shall immediately undertake a study of the proper funding of the department of transportation, the state transportation systems and the functions vested in the department. The study shall encompass alternative sources of funding of both highway and nonhighway functions of the department.

(2) The transportation commission through the secretary of transportation shall prepare a proposed budget for the operations of the department of transportation for the biennium ending June 30, 1979, and in connection therewith shall obtain such data relating to the needs of the state transportation systems and functions as may be necessary. The preliminary budget including proposed alternative sources of funding for the department of transportation for the remainder of the biennium ending June 30, 1979, shall be submitted to the house and senate transportation committees for review by November 15, 1977." [1977 1st ex.s. c 151 § 25.]

Additional powers—1977 1st ex.s. c 235: "The following studies shall be undertaken with the concurrence of the legislative transportation committee:

(1) The Washington state highway commission is hereby authorized to prioritize the needs among, and provide for the installation of, emergency traffic control devices at rural fire district stations in consultation with the legislative transportation committee and the house and senate transportation committees. In developing the priorities for funding such control devices, the commission shall consider the recommendations of the county road administration board, the traffic safety commission, and the Washington fire commissioners.

(2) The Washington state highway commission is hereby directed to conduct a study of the potential need for and the engineering, social, economic, environmental, and financial feasibility of a third bridge across the Columbia river between Clark county, Washington, and Oregon.

Said study shall include forecasts and analyses of regional population growth trends as well as traffic growth trends. It shall further evaluate the feasibility of various potential locations for such a bridge, and its potential as a corridor for public transportation.

The highway commission and the department of highways shall make every effort to obtain the cooperation of the Oregon transportation commission, the Oregon department of transportation, and the Columbia region association of governments in conducting said study.

The final study results shall be reported to the forty-sixth legislature in January, 1979; periodic progress reports shall be made to the legislative transportation committee and the house and senate transportation committees at their request.

(3) The Washington state highway commission is hereby directed to conduct a feasibility study of the construction of a toll bridge across the Columbia river in the vicinity of the northern part of Richland so as to permit a highway connection between state route 240 and federal aid interstate 182 near Pasco.

The study shall be conducted in conjunction with the Tri-Cities metropolitan area transportation study and will utilize traffic projections based upon the latest population and employment data update scheduled for completion by June, 1977.

A report shall be submitted to the legislative transportation committee and the house and senate transportation committees by January 1, 1979.

(4) The Washington state highway commission is authorized and directed to conduct a study of the need to construct a bypass of the Woodinville community on state route 202 near Northeast 190th and Northeast 195th in King county.

The commission is directed to complete the study and submit its findings to the legislature on or before December 31, 1978." [1977 1st ex.s. c 235 § 2.]

Additional powers—Rail passenger service market analysis—

1977 1st ex.s. c 235: "The planning and community affairs agency, or the state department of transportation, if one is created, is hereby authorized and directed to prepare a market analysis on the feasibility of extending passenger service within and beyond the boundaries of the state and of the desirability of entering into a contract with the national railroad passenger corporation for such extended service. The agency or department shall submit the feasibility analysis to the national railroad passenger corporation by October 15, 1977, and

report to the 1978 session of the legislature its recommendations for further action." [1977 1st ex.s. c 235 § 3.]

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

47.01.081 Department—Organization—Assistant and deputy secretaries—Appointment, exempt from civil service, salaries.

(1) Initially the department shall be organized into divisions, including the division of highways, the division of public transportation, the division of aeronautics, the division of marine transportation, and the division of transportation planning and budget.

(2) The secretary may reorganize divisions in order to attain the maximum possible efficiency in the operation of the department. Each division shall be headed by an assistant secretary to be appointed by the secretary. The secretary may also appoint a deputy secretary as may be needed for the performance of the duties and functions vested in the department. The secretary may delegate to officers within the several divisions of the department authority to employ personnel necessary to discharge the responsibilities of the department.

(3) The officers appointed under this section shall be exempt from the provisions of the state civil service law and shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law. [1977 1st ex.s. c 151 § 8.]

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

47.01.091 Advisory councils. The secretary shall establish such advisory councils as are necessary to carry out the purposes of *this 1977 amendatory act, and to insure adequate public participation in the planning and development of transportation facilities. Members of such councils shall serve at the pleasure of the secretary and may receive per diem and necessary expenses, in accordance with RCW 43.03.050 and 43.03.060, as now or hereafter amended. [1977 1st ex.s. c 151 § 9.]

*Reviser's note: *this 1977 amendatory act* (1977 1st ex.s. c 151), see note following RCW 47.98.070.

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

47.01.101 Secretary—Authority and duties. The secretary shall have the authority and it shall be his or her duty, subject to policy guidance from the commission:

(1) To serve as chief executive officer of the department with full administrative authority to direct all its activities;

(2) To organize the department as he or she may deem necessary to carry out the work and responsibilities of the department effectively;

(3) To designate and establish such transportation district or branch offices as may be necessary or convenient, and to appoint assistants and delegate any powers, duties, and functions to them or any officer or employee

of the department as deemed necessary to administer the department efficiently;

(4) To direct and coordinate the programs of the various divisions of the department to assure that they achieve the greatest possible mutual benefit, produce a balanced overall effort, and eliminate unnecessary duplication of activity;

(5) To adopt all department rules which are subject to the adoption procedures contained in the state administrative procedure act except rules subject to adoption by the commission pursuant to statute;

(6) To maintain and safeguard the official records of the department, including the commission's recorded resolutions and orders;

(7) To provide full staff support to the commission to assist it in carrying out its functions, powers, and duties and to execute the policy established by the commission pursuant to its legislative authority;

(8) To exercise all other powers and perform all other duties as are now or hereafter provided by law. [1977 1st ex.s. c 151 § 10.]

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

47.01.111 Transfer of personnel to department—Exception. (1) All employees and personnel of the department of highways, the highway commission, the toll bridge authority, the aeronautics commission, and the canal commission, and personnel in the planning and community affairs agency whose primary duties relate to transportation, shall, on July 1, 1977, be transferred to the jurisdiction of the department of transportation. All employees classified under chapter 41.06 RCW, the state civil service law, shall be assigned to the department 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 bargaining agreements and the laws and rules governing the state merit system: *Provided*, That the executive secretary appointed by the urban arterial board shall not be transferred to the department and shall remain subject to the control of the urban arterial board.

(2) Any officer or employee of any of the agencies mentioned hereinabove who holds an exempt position with such agency and who previously held permanent status in a classified position shall on or after July 1, 1977, have a right of reversion to the highest class of position previously held, and may continue employment in the department of transportation at such class of position subject to any action that may be appropriate thereafter in accordance with the laws and rules governing the state merit system. [1977 1st ex.s. c 151 § 11.]

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

47.01.121 Continuation of rules and regulations. The lawfully adopted rules and regulations of the Washington state highway commission, the Washington toll bridge authority, the aeronautics commission, the

canal commission, and those of the planning and community affairs agency which relate to transportation, in effect on June 30, 1977, shall continue to have full force and effect and be applicable until superseded by, or repealed by, rules and regulations lawfully adopted by the secretary of transportation or the transportation commission as provided in RCW 47.01.061 and 47.01.101. Rules and regulations lawfully adopted by the board of pilotage commissioners pursuant to RCW 88.16.030 in effect on June 30, 1977, shall continue to have full force and effect and be applicable until suspended by, or repealed by, rules and regulations lawfully adopted by the newly constituted board of pilotage commissioners as provided for in RCW 88.16.010 as now or hereafter amended. [1977 1st ex.s. c 151 § 12.]

Savings—Existing rights, actions, and proceedings: "Nothing in this 1977 amendatory act shall be construed to affect any existing rights acquired under the sections amended or repealed herein except as to the governmental agencies referred to and their officials and employees, nor as affecting any actions, activities, or proceedings validated thereunder, nor as affecting any civil or criminal proceedings instituted thereunder, nor any rule, regulation, resolution, or order promulgated thereunder, nor any administrative action taken thereunder; and neither the abolition of any agency nor any transfer of powers, duties, and functions as provided herein, shall affect the validity of any act performed by such agency or any officer thereof prior to the effective date of this 1977 amendatory act." [1977 1st ex.s. c 151 § 15.]

Reviser's note: "the effective date of this 1977 amendatory act" was September 21, 1977.

Savings—Existing collective bargaining rights: "Nothing contained in this 1977 amendatory act shall be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until any such agreement has expired." [1977 1st ex.s. c 151 § 16.]

Reviser's note: For codification of "this 1977 amendatory act" (1977 1st ex.s. c 151) see note following RCW 47.98.070.

Transfer of papers, property, and appropriations to department: "All reports, documents, surveys, books, records, files, papers, or other writings in the possession of the department of highways, the highway commission, the toll bridge authority, the aeronautics commission, the canal commission, the board of pilotage commissioners, and such material in possession of the planning and community affairs agency which relates to transportation, shall be delivered on the effective date of this 1977 amendatory act, to the custody of the department of transportation.

All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed in carrying out the powers, duties, and functions transferred to the department of transportation by section 3 of this 1977 amendatory act shall be made available on the effective date of this 1977 amendatory act, to the department. All funds, credits, or other assets held in connection with the functions so transferred shall by such time be assigned to the department of transportation.

Any appropriations heretofore made to the department of highways, the highway commission, the toll bridge authority, the aeronautics commission, the canal commission, and the planning and community affairs agency for the purpose of carrying out the powers, duties, and functions transferred in section 3 of this 1977 amendatory act, shall on the effective date of this 1977 amendatory act, be so transferred and credited to the department of transportation for the purpose of carrying out such transferred powers, duties, and functions. Appropriations to the planning and community affairs agency hereby transferred to the department of transportation, including funds for administration of advanced planning moneys for local public transportation agencies, that are available for administration and state level planning functions may be expended during the period July 1, 1977, through March 31, 1978, to pay that share of the administration and planning activities of the department of transportation relating to nonhighway functions of the department, pending adoption of the department's supplemental budget as provided in section 25 of this 1977 amendatory act.

Whenever any question arises as to the transfer of any funds including unexpended balances within any accounts, books, documents,

records, papers, files, equipment, or any other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred under section 3 of this 1977 amendatory act, the director of the office of program planning and fiscal management shall make a determination as to the proper allocation and certify the same to the state agencies concerned." [1977 1st ex.s. c 151 § 17.]

Reviser's notes: (1) "the effective date of this 1977 amendatory act" was September 21, 1977;

(2) "section 3 of this 1977 amendatory act" is codified as RCW 47.01.031;

(3) "section 25 of this 1977 amendatory act", see note following RCW 47.01.071;

(4) "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

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

47.01.131 Continuation of state services to department. All state officials required to maintain contact with or provide services for any of the departments or agencies whose functions are transferred by RCW 47.01.031 shall continue to perform such services for the department of transportation unless otherwise directed by this title. [1977 1st ex.s. c 151 § 18.]

47.01.141 Commission's annual report to legislature and governor. The highway commission shall submit an annual report to the governor and legislature, including but not limited to operational and construction activities of the preceding fiscal year as the commission may deem important and recommendations for future operations of the commission. [1977 c 75 § 68; 1973 2nd ex.s. c 12 § 1.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "highway commission" means department of transportation; see RCW 47.04.015.

Commission's report to legislature on highway needs: RCW 47.01.220.

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

47.01.220 Commission—Report to legislature on highway needs through legislative transportation committee and senate and house transportation committees. The state highway commission shall report to the legislature through the legislative transportation committee and senate and house transportation committees on the highway needs of the state. [1977 1st ex.s. c 235 § 13; 1973 2nd ex.s. c 12 § 3; 1961 c 13 § 47.01.220. Prior: 1957 c 172 § 30. Formerly RCW 43.27.192.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "state highway commission" means department of transportation; see RCW 47.04.015.

Commission's report to legislature and governor: RCW 47.01.141.

47.01.250 Consultation with designated state officials—Report to governor and legislature. The chief of the Washington state patrol, the director of the traffic safety commission, the administration engineer of the county road administration board, and the director of

the department of motor vehicles are designated as official consultants to the transportation commission so that the goals and activities of their respective agencies which relate to transportation are fully coordinated with other related responsibilities of the department of transportation. In this capacity, the chief of the Washington state patrol, the director of the traffic safety commission, the administration engineer of the county road administration board, and the director of motor vehicles shall consult with the transportation commission and the secretary of transportation on the implications and impacts on the transportation related functions and duties of their respective agencies of any proposed comprehensive transportation plan, program, or policy.

In order to develop fully integrated, balanced, and coordinated transportation plans, programs, and budgets the chief of the Washington state patrol, the director of the traffic safety commission, the administration engineer of the county road administration board, and the director of motor vehicles shall consult with the secretary of transportation on the matter of relative priorities during the development of their respective agencies' plans, programs, and budgets as they pertain to transportation activities. The secretary of transportation shall provide written comments to the governor and the legislature on the extent to which the state patrol's, the traffic safety commission's, the county road administration board's, and the department of motor vehicle's final plans, programs, and budgets are compatible with the priorities established in the department of transportation's final plans, programs, and budgets. [1977 1st ex.s. c 151 § 26.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Chapter 47.02

HIGHWAY COMMISSION BUILDINGS

Sections

47.02.010 Buildings on east capitol site authorized—
Financing.

47.02.010 Buildings on east capitol site authorized—Financing. The Washington state highway commission is authorized in accordance with the provisions of this chapter and RCW 79.24.500 through 79.24.600 to provide for the acquisition of land and the construction of buildings, laboratories and facilities on the east capitol site for the use of the Washington state highway commission and the department of highways and to finance payment thereof by bonds payable out of special funds from the proceeds of state excise taxes on motor vehicle fuels, or by gifts, bequests or grants or by such additional funds as the legislature may provide. [1977 1st ex.s. c 235 § 14; 1965 ex.s. c 167 § 1.]

Reviser's note: Powers, duties, and functions of highway commission and highway department transferred to department of transportation; see RCW 47.01.031. Terms "state highway commission" and "department of highways" mean department of transportation; see RCW 47.04.015.

Chapter 47.04
GENERAL PROVISIONS

Sections

- 47.04.015 Change of meaning, certain terms.
- 47.04.150 Outstanding bonds—Savings.

47.04.015 Change of meaning, certain terms. Unless the language specifically indicates otherwise, or unless the context plainly requires a different interpretation:

Wherever in Title 47 RCW or in any provision in the Revised Code of Washington the term "Washington state highway commission", "the state highway commission", "the highway commission", "the commission" (when referring to the Washington state highway commission), "the department of highways", "Washington toll bridge authority", or "the authority" (when referring to the Washington toll bridge authority) is used, it shall mean the department of transportation created in RCW 47.01.031.

Wherever in Title 47 RCW or in any provision in the Revised Code of Washington the term "director of highways" is used, it shall mean the secretary of transportation, whose office is created in RCW 47.01.041. [1977 1st ex.s. c 151 § 23.]

47.04.150 Outstanding bonds—Savings. While any bonds, whether definitive, temporary, or interim, or warrants, certificates, or receipts of any denomination, with or without coupons attached heretofore issued by the state aeronautics commission, the toll bridge authority, the highway commission, or any of the other agencies whose functions are transferred to the department of transportation by RCW 47.01.031, remain outstanding, the powers and duties relating thereto of such agencies or of any official or employee thereof transferred by RCW 47.01.111 to the department of transportation, or any powers and duties of any other state official or state agency with respect to such bonds, warrants, certificates, or receipts shall not be diminished or impaired in any manner that will adversely affect the interests and rights of the holders of such bonds, warrants, certificates, or receipts. The holder of any such bond, warrant, certificate, or receipt may by mandamus or other appropriate proceeding require the performance by the department of transportation, or other appropriate state official or agency, of any of the duties heretofore imposed upon any state department, official, or employee under the terms of any such prior bond, warrant, certificate, or receipt agreement or sale: *Provided*, That the enumeration of such rights and remedies herein shall not be deemed to exclude the exercise or prosecution of any other rights or remedies by the holders of such bonds, warrants, certificates, or receipts. [1977 1st ex.s. c 151 § 19.]

Chapter 47.05
PRIORITY PROGRAMMING FOR HIGHWAY DEVELOPMENT

Sections

- 47.05.020 Functional classification of highways. (Amended).

- 47.05.020 Functional classification of highways. (Repealed).
- 47.05.021 Functional classification of highways.
- 47.05.030 Long range plan for improvements—Objectives—Categories—Priorities.
- 47.05.040 Six year comprehensive highway construction program and financial plan—Adoption—Biennial revision—Apportionment.
- 47.05.070 Budget recommendation to be presented to governor and legislature—Contents.

47.05.020 Functional classification of highways. The department of transportation is hereby directed to conduct periodic analyses of the entire state highway system, and based thereon, to subdivide and classify according to their function and importance all designated state highways and those added from time to time other than the national system of interstate and defense highways and periodically review and revise the classifications, into the following additional four functional classes:

- (1) The "principal state highway system" which shall comprise not to exceed twenty percent of the total state highway mileage other than the interstate system;
 - (2) The "major state highway system" which shall comprise not to exceed thirty-five percent of the total state highway mileage other than the interstate system;
 - (3) The "collector state highway system" which shall comprise not to exceed thirty-five percent of the total state highway mileage other than the interstate system;
 - (4) The "other state highway system".
- In making such functional classification the department shall be governed by reasonable policies adopted by the commission, and give consideration to the following criteria:
- (a) Urban population centers within and without the state stratified and ranked according to size;
 - (b) Important traffic generating economic activities, including but not limited to recreation, agriculture, government, business, and industry;
 - (c) Feasibility of route, including availability of alternate routes within and without the state;
 - (d) Directness of travel and distance between points of economic importance;
 - (e) Length of trips;
 - (f) Character and volume of traffic;
 - (g) Preferential consideration for multiple service;
 - (h) Reasonable spacing depending upon population density; and
 - (i) System continuity, except for the "other" system. [1977 1st ex.s. c 151 § 43; 1969 ex.s. c 39 § 2; 1963 c 173 § 2.]

Reviser's note: The amendment of this section by 1977 1st ex.s. c 151 § 43 does not take cognizance of the section's repeal by 1977 1st ex.s. c 130 § 2, effective July 1, 1979.

47.05.020 Functional classification of highways. [1969 ex.s. c 39 § 2; 1963 c 173 § 2.] Repealed by 1977 1st ex.s. c 130 § 2, effective July 1, 1979.

Reviser's note: This section was also amended by 1977 1st ex.s. c 151 § 43 without cognizance of the repeal thereof.

47.05.021 Functional classification of highways. (1) The state highway commission is hereby directed to conduct periodic analyses of the entire state highway system, report thereon to the legislature biennially and based thereon, to subdivide, classify, and subclassify according to their function and importance all designated state highways and those added from time to time and periodically review and revise the classifications, except those highways designated as part of the national system of interstate and defense highways, into the following three functional classes:

- (a) The "principal arterial system" shall consist of a connected network of rural arterial routes with appropriate extensions into and through urban areas, including all routes designated as part of the interstate system,

which serve corridor movements having travel characteristics indicative of substantial state-wide and interstate travel;

(b) The "minor arterial system" shall, in conjunction with the principal arterial system, form a rural network of arterial routes linking cities and other activity centers which generate long distance travel, and, with appropriate extensions into and through urban areas, form an integrated network providing interstate and interregional service; and

(c) The "collector system" shall consist of routes which primarily serve the more important intercounty, intracounty, and intraurban travel corridors, collect traffic from the system of local access roads and convey it to the arterial system, and on which, regardless of traffic volume, the predominant travel distances are shorter than on arterial routes.

(2) Those state highways which perform no arterial or collector function, which serve only local access functions, and which lack essential state highway characteristics shall be designated "local access" highways.

(3) In making the functional classification the highway commission shall adopt and give consideration to criteria consistent with this section and federal regulations relating to the functional classification of highways, including but not limited to the following:

(a) Urban population centers within and without the state stratified and ranked according to size;

(b) Important traffic generating economic activities, including but not limited to recreation, agriculture, government, business, and industry;

(c) Feasibility of the route, including availability of alternate routes within and without the state;

(d) Directness of travel and distance between points of economic importance;

(e) Length of trips;

(f) Character and volume of traffic;

(g) Preferential consideration for multiple service which shall include public transportation;

(h) Reasonable spacing depending upon population density; and

(i) System continuity. [1977 1st ex.s. c 130 § 1.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "Washington state highway commission" means department of transportation; see RCW 47.04.015.

Effective dates—1977 1st ex.s. c 130: "Section 1 of this 1977 act modifying the functional classification of state highways shall apply to the long range plan for highway improvements and to the six year program for highway construction commencing July 1, 1979 and to the preparation thereof and shall take effect July 1, 1977. Section 2 of this 1977 act shall take effect July 1, 1979." [1977 1st ex.s. c 130 § 3.] "Section 1 of this 1977 act" is codified as RCW 47.05.021; "Section 2 of this 1977 act" repealed RCW 47.05.020.

47.05.030 Long range plan for improvements—Objectives—Categories—Priorities. The department of transportation shall adopt and periodically revise in accordance with policies established by the transportation commission and after consultation with the legislative transportation committee and senate and house transportation committees a long range plan for highway improvements, specifying highway planning objectives for each of the highway categories, "A", "B", and "C",

defined in this section, based upon needs for the ensuing fourteen year advance planning period, and within the framework of revenue estimates for such period. The plan shall be based upon the improvement needs for state highways as determined by the department from time to time.

With such reasonable deviations as may be required to effectively utilize the available funds and to adjust to unanticipated delays in programmed projects, the department shall allocate the estimated available funds among the following described categories of highway improvements, so as to carry out the department's highway planning objectives within a fourteen year advance planning period:

(1) Category A shall consist of those improvements necessary to sustain the structural, safety, and operational integrity of the existing state highway system (other than improvements to the interstate system to be funded with federal aid at the regular interstate rate under federal law and regulations).

(2) Category B shall consist of improvements for the continued development of the interstate system to be funded with federal aid at the regular interstate rate under federal law and regulations.

(3) Category C shall consist of the development of major transportation improvements (other than improvements to the interstate system to be funded with federal aid at the regular interstate rate under federal law and regulations) including designated but unconstructed highways which are vital to the state-wide transportation network. [1977 1st ex.s. c 151 § 44; 1975 1st ex.s. c 143 § 1; 1973 2nd ex.s. c 12 § 4; 1969 ex.s. c 39 § 3; 1965 ex.s. c 170 § 33; 1963 c 173 § 3.]

47.05.040 Six year comprehensive highway construction program and financial plan—Adoption—Biennial revision—Apportionment. (1) Prior to October 1 of each even-numbered year, the state highway commission shall adopt and thereafter shall biennially revise after consultation with the legislative transportation committee and senate and house transportation committees a comprehensive six year program and financial plan for highway construction, maintenance, and planning activities.

(2) The highway construction program for the ensuing six years shall allocate to category A improvements as a whole, and then to each of the five functional classes of state highways, that percentage of the estimated available construction funds as will be necessary to accomplish the commission's long range plan for highway improvements. The commission shall then apportion the available category A construction funds, according to functional class, among the several highway districts in the proportion that the estimated remaining category A improvement needs for each functional class of highway within each highway district bears to the total of such estimated needs for each functional class remaining unsatisfied throughout the state.

(3) The commission shall allocate to category B improvements for the ensuing six years, the estimated available federal aid interstate funds and state matching funds as necessary to accomplish the commission's long

range plan for category B highway improvements throughout the state.

(4) The commission shall allocate to category C improvements for the ensuing six years, the remaining estimated available construction funds to accomplish to the extent possible the commission's long range plan for category C highway improvements throughout the state. [1977 1st ex.s. c 235 § 15; 1975 1st ex.s. c 143 § 3; 1973 2nd ex.s. c 12 § 5; 1969 ex.s. c 39 § 4; 1963 c 173 § 4.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "state highway commission" means department of transportation; see RCW 47.04.015.

47.05.070 Budget recommendation to be presented to governor and legislature—Contents. The transportation commission, with the assistance of the department, shall approve and present to the governor and to the legislature prior to its convening, a recommended budget for the ensuing biennium. The biennial budget shall include details of proposed expenditures, performance and public service criteria for construction, maintenance, and planning activities in consonance with the six-year comprehensive program and financial plan adopted under provisions of RCW 47.05.040. [1977 1st ex.s. c 151 § 45; 1973 2nd ex.s. c 12 § 7; 1963 c 173 § 7.]

Chapter 47.12

ACQUISITION AND DISPOSITION OF STATE HIGHWAY PROPERTY

Sections

47.12.010	Acquisition of property authorized— Condemnation actions—Cost.
47.12.020	Repealed.
47.12.023	Acquisition of state lands or interests or rights therein— Notice—Amount of compensation—Arbitration or court settlement—Reacquisition by department of natural resources.
47.12.026	Acquisition of state lands or interests or rights therein— Easements across navigable waters or harbors—Removal of materials—Relocation of railroad tracks.
47.12.029	Acquisition of state lands or interests or rights therein— Certain purposes prohibited.
47.12.060	Sale or exchange of rights or land not needed for highway purposes— Sale by public auction only, when. (Amended).
47.12.060	Sale or exchange of rights or land not needed for highway purposes— Sale by public auction only, when. (Repealed).
47.12.063	Sale of real property not needed for highway purposes— Sale at fair market value, to whom—Public auction, when—Sales procedures—Deposit of moneys in motor vehicle fund.
47.12.066	Sale or lease of personal property— Provision of services—Proceeds placed in motor vehicle fund.
47.12.070	Sale or exchange of rights or land not needed for highway purposes— Sale or lease to a city or county—Proceeds. (Amended).
47.12.070	Sale or exchange of rights or land not needed for highway purposes— Sale or lease to a city or county—Proceeds. (Repealed).
47.12.080	Transfer and conveyance of real property not needed for highway purposes— Transfer to United States, state agency, county, city, port district, public utility—Proceeds (as amended by 1977 1st ex.s. c 78).

47.12.080	Sale or exchange of rights or land not needed for highway purposes— Transfer to United States, municipal subdivision, public utility—Proceeds (as amended by 1977 1st ex.s. c 151).
47.12.120	Lease of unused highway land or air space.
47.12.130	Exchange of land with abutting owner.
47.12.140	Severance and sale of timber and other personalty— Removal of nonmarketable materials (as amended by 1977 1st ex.s. c 78).
47.12.140	Severance and sale of timber and other personalty (as amended by 1977 1st ex.s. c 151).
47.12.150	Acquisition, exchange, of property to relocate displaced facility.
47.12.190	Additional method of financing acquisition of property, engineering costs—Authorization to purchase or condemn real property and property rights by additional method.
47.12.200	Additional method of financing acquisition of property, engineering costs—Agreements with state finance committee.
47.12.220	Additional method of financing acquisition of property, engineering costs—Mandatory, permissive, provisions in agreement with finance committee—Duration, funds, redemption of warrants, interest, etc.
47.12.280	Sale of real property— Authorized—Procedure—Disposition of proceeds.

47.12.010 Acquisition of property authorized—Condemnation actions—Cost. Whenever it is necessary to secure any lands or interests in land for a right of way for any state highway, or for the drainage thereof or construction of a protection therefor or so as to afford unobstructed vision therefor toward any railroad crossing or another public highway crossing or any point of danger to public travel or to provide a visual or sound buffer between highways and adjacent properties or for the purpose of acquiring sand pits, gravel pits, borrow pits, stone quarries, or any other land for the extraction of materials for construction or maintenance or both, or for any site for the erection upon and use as a maintenance camp, of any state highway, or any site for other necessary structures or for structures for the health and accommodation of persons traveling or stopping upon the state highways of this state, or any site for the construction and maintenance of structures and facilities adjacent to, under, upon, within, or above the right of way of any state highway for exclusive or nonexclusive use by an urban public transportation system, or for any other highway purpose, together with right of way to reach such property and gain access thereto, the department of transportation is authorized to acquire such lands or interests in land in behalf of the state by gift, purchase, or condemnation. In case of condemnation to secure such lands or interests in land, the action shall be brought in the name of the state of Washington in the manner provided for the acquiring of property for the public uses of the state, and in such action the selection of the lands or interests in land by the secretary of transportation shall, in the absence of bad faith, arbitrary, capricious, or fraudulent action, be conclusive upon the court and judge before which the action is brought that said lands or interests in land are necessary for public use for the purposes sought. The cost and expense of such lands or interests in land may be paid as a part of the cost of the state highway for which such right of way, drainage, unobstructed vision, sand pits,

gravel pits, borrow pits, stone quarries, maintenance camp sites, and structure sites or other lands are acquired. [1977 1st ex.s. c 151 § 46; 1967 c 108 § 4; 1961 c 13 § 47.12.010. Prior: 1937 c 53 § 25, part; RRS § 6400-25, part.]

Urban public transportation system defined: RCW 47.04.082.

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

47.12.023 Acquisition of state lands or interests or rights therein—Notice—Amount of compensation—Arbitration or court settlement—Reacquisition by department of natural resources. (1) Except as provided in RCW 47.12.026 and 47.12.029, whenever it is necessary to secure any lands or interests in lands for any highway purpose mentioned in RCW 47.12.010, or for the construction of any toll facility or ferry terminal or docking facility, the title to which is in the state of Washington and under the jurisdiction of the department of natural resources, the department of highways may acquire jurisdiction over such lands or interests in lands, or acquire rights to remove materials from such lands in the manner set forth in this section.

(2) At any time after the final adoption of a right of way plan or other plan requiring the acquisition of lands or interests in lands for any purpose as authorized in subsection (1) of this section, the department of highways may file with the department of natural resources a notice setting forth its intent to acquire jurisdiction of the lands or interests in lands under the jurisdiction of the department of natural resources required for right of way or other highway purposes related to the construction or improvement of such state highway, toll facility, or ferry terminal or docking facility.

(3) The department of highways at the time of filing its notice of intent as provided in subsection (2) of this section shall file therewith a written statement showing the total amount of just compensation to be paid for the property in the event of settlement. Such offer shall be based upon the department of highways approved appraisal of the fair market value of the property to be acquired. In no event may such offer of settlement be referred to or used during any arbitration proceeding or trial conducted for the purpose of determining the amount of just compensation.

(4) Just compensation and/or fair market value for the purposes of this section shall be determined in accordance with applicable federal and state constitutional, statutory, and case law relating to the condemnation of private and public property for public purposes.

(5) In the event the department of natural resources does not accept the offer of the department of highways, the department of highways may nonetheless pay to the department of natural resources the amount of its offer and obtain immediate possession and use of the property pending the determination of just compensation in the manner hereinafter provided.

(6) If the amount of just compensation is not agreed to, either the department of natural resources or the

department of highways may request in writing the appointment of an arbitrator for the purpose of determining the amount of compensation to be paid by the department of highways for the acquisition of jurisdiction over such lands or interests in lands or rights therein. In such event the department of natural resources and the department of highways may jointly agree on an arbitrator to determine such compensation and his determination shall be final and conclusive upon both departments. The costs of the arbitrator shall be borne equally by the parties. If the department of natural resources and the department of highways are unable to agree on the selection of an arbitrator within thirty days after a request therefor is made, either the department of highways or the department of natural resources may file a petition with the superior court for Thurston county for the purpose of determining the amount of just compensation to be paid. The matter shall be tried by the court pursuant to the procedures set forth in RCW 8.04.080.

(7) Whenever the department of highways shall have acquired immediate possession and use of property by payment of the amount of its offer to the department of natural resources, and the arbitration award or judgment of the court for such acquisition exceeds the payment for immediate possession and use, the department of highways shall forthwith pay the amount of such excess to the department of natural resources with interest thereon from the date it obtained immediate possession. In the event the arbitration or court award is less than the amount previously paid by the department of highways for immediate possession and use, the department of natural resources shall forthwith pay the amount of the difference to the department of highways.

(8) Upon the payment of just compensation, as agreed to by the department of highways and the department of natural resources, or as determined by arbitration or by judgment of the court, and other costs or fees as provided by statute, the department of natural resources shall cause to be executed and delivered to the department of highways an instrument transferring jurisdiction over such lands or interests in lands, or rights to remove material from such lands, to the department of highways.

(9) Except as provided in RCW 47.12.026, whenever the department of highways shall cease to use any lands or interests in lands acquired in the manner set forth in this section for the purposes mentioned herein, the department of natural resources may reacquire jurisdiction over such lands or interests in land by paying the fair market value thereof to the department of highways. In the event the two departments are unable to agree on the fair market value of such lands or interests in lands, such market value shall be determined and the interests therein shall be transferred in accordance with the provisions and procedures set forth in subsections (4) through (8) of this section. [1977 1st ex.s. c 103 § 1.]

Reviser's note: Powers, duties, and functions of highway department transferred to department of transportation; see RCW 47.01.031. Term "department of highways" means department of transportation; see RCW 47.04.015.

47.12.026 Acquisition of state lands or interests or rights therein—Easements across navigable waters or harbors—Removal of materials—Relocation of railroad tracks. (1) The department of highways may acquire an easement for highway or toll facilities right of way or for ferry terminal or docking facilities, including the right to make necessary fills, on, over, or across the beds of navigable waters which are under the jurisdiction of the department of natural resources, in accordance with the provisions of RCW 47.12.023, except that no charge shall be made to the department of highways for such an easement.

(2) The department of highways may obtain an easement for highway or toll facilities purposes or for ferry terminal or docking facilities on, over, or across harbor areas in accordance with the provisions of RCW 47.12.023 but only when such areas are approved by the harbor line commission as a public place for public landings, wharves, or other public conveniences of commerce or navigation. No charge shall be made to the department of highways for such an easement.

(3) Upon the selection by the department of highways of an easement for highway or toll facilities right of way or for ferry terminal or docking facilities, as authorized in subsections (1) and (2) of this section, the department of natural resources shall cause to be executed and delivered to the department of highways an instrument transferring such easement. Whenever the state shall no longer require such easement for highway or toll facilities right of way or for ferry terminal or docking facilities, the easement shall automatically terminate and the department of highways shall, upon request, cause to be executed an instrument relinquishing to the department of natural resources all of its interest in such lands.

(4) The department of highways, pursuant to the procedures set forth in RCW 47.12.023, may remove sand and gravel and borrow materials and stone from the beds of navigable waters under the jurisdiction of the department of natural resources which lie below the line of ordinary high water upon the payment of fair market value per cubic yard for such materials to be determined in the manner set forth in RCW 47.12.023.

(5) The department of highways may acquire full jurisdiction over lands under the jurisdiction of the department of natural resources including the beds of navigable waters which are required for the relocation of the operating tracks of any railroad which will be displaced by the acquisition of such railroad property for state highway purposes. The department of highways may exchange lands so acquired in consideration or partial consideration for the land or property rights needed for highway purposes and may cause to be executed a conveyance of such lands in the manner prescribed in RCW 47.12.150. In such event the department of highways shall pay to the department of natural resources, as just compensation for such acquisition, the fair market value of such property, including the beds of any navigable waters, to be determined in accordance with procedures set forth in RCW 47.12.023. [1977 1st ex.s. c 103 § 2.]

Reviser's note: Powers, duties, and functions of highway department transferred to department of transportation; see RCW 47.01.031.

Term "department of highways" means department of transportation; see RCW 47.04.015.

47.12.029 Acquisition of state lands or interests or rights therein—Certain purposes prohibited. The department of highways shall not acquire jurisdiction of any lands or interest in lands under the jurisdiction of the department of natural resources for any of the purposes set forth in RCW 47.12.150, 47.12.160, 47.12.180, 47.12.250, and 47.12.270. [1977 1st ex.s. c 103 § 3.]

Reviser's note: Powers, duties, and functions of highway department transferred to department of transportation; see RCW 47.01.031. Term "department of highways" means department of transportation; see RCW 47.04.015.

47.12.060 Sale or exchange of rights or land not needed for highway purposes—Sale by public auction only, when. When a state highway is relocated and the old route is abandoned, and the new route crosses land owned by a person who owns land abutting on the old route, the department may agree with the owner to convey to that person title to the old route or a part thereof as all or part consideration for such land to be taken for the new route.

Whenever the state has abandoned any highway rights of way, pit sites, or stock pile sites or owns land not needed for highway purposes, the department may sell same to abutting owners for the fair market value or exchange with any person as a consideration or part consideration for lands or property rights needed by the state, or may sell same by public auction whenever it is deemed in the public interest to do so.

The secretary of transportation shall execute the deed, which shall be duly acknowledged, and deliver it to the grantee. [1977 1st ex.s. c 151 § 47; 1961 c 13 § 47.12.060. Prior: 1955 c 384 § 13; prior: 1945 c 146 § 1, part; 1937 c 53 § 28, part; Rem. Supp. 1945 § 6400-28, part.]

Reviser's note: The amendment of this section by 1977 1st ex.s. c 151 § 47 did not take cognizance of its amendment by 1975 1st ex.s. c 96 § 1 or of its repeal by 1977 c 78 § 9.

47.12.060 Sale or exchange of rights or land not needed for highway purposes—Sale by public auction only, when. [1975 1st ex.s. c 96 § 1; 1961 c 13 § 46.12.060. Prior: 1955 c 384 § 13; prior: 1945 c 146 § 1, part; 1937 c 53 § 28, part; Rem. Supp. 1945 § 6400-28, part.] Repealed by 1977 1st ex.s. c 78 § 9.

Reviser's note: This section was also amended by 1977 1st ex.s. c 151 § 47 without cognizance of the repeal thereof.

47.12.063 Sale of real property not needed for highway purposes—Sale at fair market value, to whom—Public auction, when—Sales procedures—Deposit of moneys in motor vehicle fund. (1) Whenever the department of highways determines that any real property owned by the state of Washington and under the jurisdiction of the highway commission is no longer required for highway purposes and that it is in the public interest to do so, the department may sell the property at fair market value to any of the following governmental entities or persons:

- (a) Any other state agency;
- (b) The city or county in which the property is situated;
- (c) Any other municipal corporation;
- (d) The former owner of the property from whom the state acquired title;
- (e) In the case of residentially improved property, a tenant of the department of highways who has resided thereon for not less than six months and who is not delinquent in paying rent to the state; and
- (f) Any abutting private owner but only after each other abutting private owner (if any), as shown in the

records of the county assessor, is notified in writing of the proposed sale. If more than one abutting private owner requests in writing the right to purchase the property within fifteen days after receiving notice of the proposed sale, the property shall be sold at public auction in the manner provided in RCW 47.12.280.

(2) Sales to purchasers may at the department's option be for cash or by real estate contract.

(3) The department may agree with the owner of real property required for highway purposes to convey to such owner real property under the jurisdiction of the highway commission which is no longer required for highway purposes as all or part consideration for the property to be acquired for highway purposes.

(4) Conveyances made pursuant to this section shall be by deed executed by the director of highways and shall be duly acknowledged.

(5) All moneys received pursuant to the provisions of this section less any real estate broker commissions paid pursuant to RCW 47.12.320 shall be deposited in the motor vehicle fund. [1977 1st ex.s. c 78 § 1.]

Reviser's note: Powers, duties, and functions of highway department, director of highways, and highway commission transferred to department of transportation; see RCW 47.01.031. Terms "department of highways" and "highway commission" mean department of transportation; term "director of highways" means secretary of transportation; see RCW 47.04.015.

47.12.066 Sale or lease of personal property—Provision of services—Proceeds placed in motor vehicle fund. (1) The department of highways may sell at fair market value, or lease at rental value (economic rent), materials or other personal property to any United States agency or to any municipal corporation, political subdivision, or another agency of the state and may provide services to any United States agency or to any municipal corporation, political subdivision, or another agency of the state at actual cost, including a reasonable amount for indirect costs.

(2) The department may sell at fair market value materials or other personal property to any private utility company regulated by the utilities and transportation commission for the purpose of making emergency repairs to utility facilities or to protect such facilities from imminent damage upon a finding in writing by the director of highways that an emergency exists.

(3) The proceeds of all sales and leases under this section shall be placed in the motor vehicle fund. [1977 1st ex.s. c 78 § 2.]

Reviser's note: Powers, duties, and functions of highway department and director of highways transferred to department of transportation; see RCW 47.01.031. Term "department of highways" means department of transportation; term "director of highways" means secretary of transportation; see RCW 47.04.015.

47.12.070 Sale or exchange of rights or land not needed for highway purposes—Sale or lease to a city or county—Proceeds. If the department deems that any land is no longer required for state highway purposes and that it is in the public interest so to do, the department may negotiate for the sale of the land to a city or county of the state. If a sale is agreed to, the secretary of transportation shall execute the deed, which shall be duly acknowledged, and deliver it to the grantee.

Any moneys received pursuant to the provisions of this section shall be deposited in the motor vehicle fund. [1977 1st ex.s. c 151 § 48;

1975 1st ex.s. c 96 § 2; 1969 c 91 § 2; 1961 c 13 § 47.12.070. Prior: 1955 c 384 § 14; prior: 1945 c 146 § 1, part; 1937 c 53 § 28, part; Rem. Supp. 1945 § 6400-28, part.]

Reviser's note: The amendment of this section by 1977 1st ex.s. c 151 § 48 does not take cognizance of the section's repeal by 1977 1st ex.s. c 78 § 9.

47.12.070 Sale or exchange of rights or land not needed for highway purposes—Sale or lease to a city or county—Proceeds. [1975 1st ex.s. c 96 § 2; 1969 c 91 § 2; 1961 c 13 § 47.12.070. Prior: 1955 c 384 § 14; prior: 1945 c 146 § 1, part; 1937 c 53 § 28, part; Rem. Supp. 1945 § 6400-28, part.] Repealed by 1977 1st ex.s. c 78 § 9.

Reviser's note: This section was also amended by 1977 1st ex.s. c 151 § 48 without cognizance of the repeal thereof.

47.12.080 Transfer and conveyance of real property not needed for highway purposes—Transfer to United States, state agency, county, city, port district, public utility—Proceeds (as amended by 1977 1st ex.s. c 78). The highway commission may transfer and convey to the United States, its agencies or instrumentalities, to any other state agency, to any county or city or port district of this state, or to any public utility company, any unused state owned real property under the jurisdiction of the highway commission, when in the judgment of the highway commission and the attorney general, such transfer and conveyance is consistent with public interest. Whenever the highway commission shall make an agreement for any such transfer or conveyance, and certifies to the director of highways that such agreement has been made setting forth in such certification a description of the lands or premises involved, the director of highways shall execute and deliver unto the grantee a deed of conveyance, easement, or other instrument, duly acknowledged, as shall be necessary to fulfill the terms of the aforesaid agreement. All moneys paid to the state of Washington under any of the provisions hereof shall be deposited in the motor vehicle fund. [1977 1st ex.s. c 78 § 5; 1975 1st ex.s. c 96 § 3; 1961 c 13 § 47.12.080. Prior: 1945 c 127 § 1; Rem. Supp. 1945 § 6400-120.]

Reviser's note: Powers, duties, and functions of highway commission and director of highways transferred to department of transportation; see RCW 47.01.031. Term "highway commission" means department of transportation; term "director of highways" means secretary of transportation; see RCW 47.04.015.

47.12.080 Sale or exchange of rights or land not needed for highway purposes—Transfer to United States, municipal subdivision, public utility—Proceeds (as amended by 1977 1st ex.s. c 151). Whenever in the construction, reconstruction, location, or improvement of any state highway it may become necessary to transfer and convey to the United States, its agencies or instrumentalities, to any municipal subdivision of this state, or to any public utility company, any unused state highway right of way or real property, and in the judgment of the secretary of transportation and the attorney general, such transfer and conveyance is consistent with public interest, the secretary may enter into agreements accordingly. Whenever the secretary shall make any such agreement for any such transfer or conveyance, and the attorney general concurs therein, the secretary shall execute and deliver unto the United States government, or its agencies or instrumentalities, unto any municipal subdivision of this state, or unto any public utility company, a deed of conveyance, easement, or other instrument, duly acknowledged, as shall be necessary to fulfill the terms of the aforesaid agreement. All moneys paid to the state of Washington under any of the provisions hereof shall be deposited in the motor vehicle fund. [1977 1st ex.s. c 151 § 49; 1975 1st ex.s. c 96 § 3; 1961 c 13 § 47.12.080. Prior: 1945 c 127 § 1; Rem. Supp. 1945 § 6400-120.]

Reviser's note: RCW 47.12.080 was amended twice during the 1977 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

47.12.120 Lease of unused highway land or air space. The department is authorized, subject to the provisions and requirements of zoning ordinances of political subdivisions of government, to rent or lease any lands, improvements, or air space above or below any

lands, including those used or to be used for both limited access and conventional highways which are held for highway purposes but are not presently needed, upon such terms and conditions as the department may determine. [1977 1st ex.s. c 151 § 50; 1969 c 91 § 1; 1961 c 13 § 47.12.120. Prior: 1949 c 162 § 1; Rem. Supp. 1949 § 6400-122.]

47.12.130 Exchange of land with abutting owner. Whenever the department shall have title to any parcel of land acquired for highway purposes which the secretary of transportation shall determine is not necessary for highway purposes, the secretary of transportation is authorized to deed such land to the owner of land abutting upon such parcel in consideration, or partial consideration, for other lands owned by such property owner which the department deems to be necessary for highway purposes. [1977 1st ex.s. c 151 § 51; 1975 1st ex.s. c 96 § 4; 1961 c 13 § 47.12.130. Prior: 1953 c 28 § 1.]

47.12.140 Severance and sale of timber and other personality—Removal of nonmarketable materials (as amended by 1977 1st ex.s. c 78). (1) Except as otherwise provided in subsection (2) of this section, whenever the state highway department shall have acquired any lands, except state granted lands, upon which are located any structures, timber or other thing of value attached to the land, which the state highway commission shall deem it best to sever from the land and sell as personal property, the same may be sold by the department of highways at public auction after due notice thereof shall have been given in accordance with general regulations prescribed by the state highway commission. The state highway commission may set minimum prices that will be accepted for any item offered for sale at public auction as herein provided and may prescribe terms or conditions of sale and, in the event that any item shall be offered for sale at such auction and for which no satisfactory bids shall be received or for which the amount bid shall be less than the minimum set by the commission, it shall be lawful for the commission to sell such item at private sale for the best price which it deems obtainable but at not less than the highest price bid at the public auction. The proceeds of all sales under this section shall be placed in the motor vehicle fund.

(2) The department of highways may issue permits to residents of this state to remove specified quantities of standing or downed trees and shrubs, rock, sand, gravel, or soils which have no market value in place and which the department desires to be removed from state owned lands which are under the jurisdiction of the highway commission. An applicant for such a permit must certify that the materials so removed are to be used by himself and that they will not be disposed of to any other person. Removal of materials pursuant to permit shall be in accordance with such regulations as the department shall prescribe. The fee for a permit shall be two dollars and fifty cents which shall be deposited in the motor vehicle fund. The highway commission may adopt regulations providing for special access to limited access facilities for the purpose of removal of materials pursuant to permits authorized in this section. [1977 1st ex.s. c 78 § 6; 1961 c 13 § 47.12.140. Prior: 1953 c 42 § 1.]

Reviser's note: Powers, duties, and functions of highway department and highway commission transferred to department of transportation; see RCW 47.01.031. Terms "state highway commission" and "department of highways" mean department of transportation; see RCW 47.04.015.

47.12.140 Severance and sale of timber and other personality (as amended by 1977 1st ex.s. c 151). Whenever the department shall have acquired any lands for highway purposes, except state granted lands, upon which are located any structures, timber, or other thing of value attached to the land, which the department shall deem it best to sever from the land and sell as personal property, the same may be sold by the department at public auction after due notice thereof shall have been given in accordance with general regulations adopted by the secretary. The department may set minimum prices that will be accepted for any item offered for sale at public auction as herein provided and may prescribe terms or conditions of sale and, in the event that any

item shall be offered for sale at such auction and for which no satisfactory bids shall be received or for which the amount bid shall be less than the minimum set by the department, it shall be lawful for the department to sell such item at private sale for the best price which it deems obtainable but at not less than the highest price bid at the public auction. The proceeds of all sales under this section shall be placed in the motor vehicle fund. [1977 1st ex.s. c 151 § 52; 1961 c 13 § 47.12.140. Prior: 1953 c 42 § 1.]

Reviser's note: RCW 47.12.140 was amended twice during the 1977 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

47.12.150 Acquisition, exchange, of property to relocate displaced facility. Whenever the department shall need for highway purposes land or property rights belonging to the United States government or any municipality or political subdivision of the state, or which shall be a part of the right of way of any public utility having authority to exercise powers of eminent domain, when the acquisition of such property by the state will result in the displacement of any existing right of way or facility, the department is authorized to acquire by condemnation or otherwise such lands and property rights as shall be needed to relocate such right of way or facilities so displaced and to exchange lands or property rights so acquired in consideration or partial consideration for the land or property rights needed for highway purposes. The secretary of transportation shall execute each conveyance, which shall be duly acknowledged, necessary to accomplish such exchange. [1977 1st ex.s. c 151 § 53; 1975 1st ex.s. c 96 § 5; 1961 c 13 § 47.12.150. Prior: 1953 c 55 § 1.]

47.12.190 Additional method of financing acquisition of property, engineering costs—Authorization to purchase or condemn real property and property rights by additional method. The department, in addition to its other powers and duties as provided by law, is authorized to purchase or condemn any real property or property rights therein which it deems will be necessary for the improvements of routes on the state highway system by the method provided in RCW 47.12.180 through 47.12.240. Condemnation actions brought hereunder shall be brought in the name of the state as provided for acquiring property for the public uses of the state, and in such actions selection of the property and property rights by the secretary of transportation is conclusive that they are necessary for the purposes sought, in the absence of bad faith, or arbitrary, capricious, or fraudulent action. [1977 1st ex.s. c 151 § 54; 1961 c 281 § 2.]

47.12.200 Additional method of financing acquisition of property, engineering costs—Agreements with state finance committee. The transportation commission may enter into agreements with the state finance committee for financing the acquisition, by purchase or condemnation, of real property together with engineering costs that the transportation commission deems will be necessary for the improvement of the state highway system. Such agreements may provide for the acquisition of an individual parcel or for the acquisition of any number of parcels within the limits of a contemplated highway

project. [1977 1st ex.s. c 151 § 55; 1969 ex.s. c 197 § 2; 1961 c 281 § 3.]

47.12.220 Additional method of financing acquisition of property, engineering costs—Mandatory, permissive, provisions in agreement with finance committee—Duration, funds, redemption of warrants, interest, etc. Each such agreement shall include, but shall not be limited to the following:

(1) A provision stating the term of the agreement which shall not extend more than seven years from the effective date of the agreement;

(2) A designation of the specific fund or funds to be used to carry out such agreement;

(3) A provision that the department of transportation may redeem warrants purchased by the state finance committee at any time prior to the letting of a highway improvement contract utilizing the property; and further, during the effective period of each such agreement the department of transportation shall redeem such warrants whenever such a highway improvement contract is let, or upon the expiration of such agreement, whichever date is earlier;

(4) A provision stating the rate of interest such warrants shall bear commencing at the time of purchase by the state finance committee;

(5) Any additional provisions agreed upon by the transportation commission and the state finance committee which are necessary to carry out the purposes of such agreement as indicated by RCW 47.12.180 through 47.12.240, as now or hereafter amended. [1977 1st ex.s. c 151 § 56; 1969 ex.s. c 197 § 4; 1961 c 281 § 5.]

47.12.280 Sale of real property—Authorized—Procedure—Disposition of proceeds. Any real property (including lands, improvements thereon, and any interests or estates) held by the department of highways other than that acquired under *RCW 47.12.020 may be sold in accordance with the following procedure:

(1) Determination that the real property is unnecessary for the purposes of the department of highways;

(2) Determination of the fair market value of the real property;

(3) Offering of the residentially improved property for sale by negotiation and sale to a tenant of the department of highways who has resided thereon for not less than six months and who is not delinquent in paying rent to the state;

(4) Offering of the real property for sale by auction if the property is not sold under subsection (3) of this section after notice to the general public of the proposed auction sale in the following manner: By notice of the proposed sale published in a display advertisement of no less than two column by two inch or one column by four inch size in any daily or weekly legal newspaper of general circulation published in the county in which the real property to be sold is situated. This advertisement shall appear in the legal notices section and the real estate classified section. This publication shall appear for a period of not less than four weeks prior to the proposed sale and the notice shall particularly describe the property to be sold and the time and place of the proposed

sale: *Provided*, That if there is no legal newspaper published in this county, then such notice shall be published in the legal newspaper published in this state nearest to the place of sale.

(5) Offering of the real property for sale by advertisement and negotiation if the real property was offered, but not sold at auction.

No real property shall be sold for less than the fair market value at the time of the auction if sold at auction or the fair market value at the date of the agreement to sell if sold by advertisement and negotiation. Any offer to purchase real property may be rejected at any time prior to written acceptance of the offer by the department of highways and approval of the terms of the transaction by the highway commission.

The highway commission shall approve the terms of each sale, either individually or by general rule, so that payment is made or safely secured to the state. The highway commission may adopt rules further implementing this section.

All funds received under this section shall be forwarded to the state treasurer and by him credited to the motor vehicle fund. [1977 1st ex.s. c 37 § 1; 1973 1st ex.s. c 177 § 1.]

***Reviser's notes:** (1) RCW 47.12.020 was repealed by 1977 1st ex.s. c 103 § 5; for later enactment see RCW 47.12.023, 47.12.026, and 47.12.029.

(2) Powers, duties, and functions of highway department and highway commission transferred to department of transportation; see RCW 47.01.031. Terms "department of highways" and "highway commission" mean department of transportation; see RCW 47.04.015.

Chapter 47.16

PRIMARY HIGHWAY ROUTES

Sections

47.16.220 Repealed.

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

Chapter 47.17

STATE HIGHWAY ROUTES

Sections

47.17.517 State route No. 285.

47.17.520 State route No. 290.

47.17.850 State route No. 906.

47.17.517 State route No. 285. A state highway to be known as state route number 285 is established as follows:

Beginning at a junction with state route number 28 in the East Wenatchee vicinity, thence westerly across the Columbia river to the west pavement seat of the Columbia River bridge at milepost number 123.45 in Wenatchee. [1977 1st ex.s. c 224 § 1.]

47.17.520 State route No. 290. A state highway to be known as state route number 290 is established as follows:

Beginning at a junction with state route number 2 in Spokane, thence northeasterly by way of Millwood, Trentwood, and Newman Lake to the termination of Idaho state highway number 53 at the Washington–Idaho boundary line; also

Beginning at a junction with state route number 90 in Spokane, thence northerly to a junction with state route number 290 in the vicinity of Hamilton Street. [1977 1st ex.s. c 6 § 1; 1970 ex.s. c 51 § 105.]

47.17.850 State route No. 906. A state highway to be known as state route number 906 is established as follows:

Beginning at a junction with state route number 90 at the West Summit interchange of Snoqualmie Pass, thence along the alignment of the state route number 90 as it existed on May 11, 1967 in a southeasterly direction to a junction with state route number 90 at the Hyak interchange.

The legislative transportation committee, the house and senate transportation committees, and the Washington state highway commission shall undertake appropriate studies to evaluate state route number 906 to determine whether or not it should permanently remain on the state system. [1977 1st ex.s. c 235 § 16; 1971 ex.s. c 73 § 26; 1970 ex.s. c 51 § 171.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "Washington state highway commission" means department of transportation; see RCW 47.04.015.

Chapter 47.20

MISCELLANEOUS PROJECTS

Sections

47.20.662 Repealed.

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

Chapter 47.24

CITY STREETS AS PART OF STATE HIGHWAYS

Sections

47.24.010 Designation of street as part of highway—Construction, maintenance—Return of street to city or town.

47.24.020 Jurisdiction, control of such streets.

47.24.010 Designation of street as part of highway—Construction, maintenance—Return of street to city or town. The transportation commission shall determine what streets, together with bridges thereon and wharves necessary for use for ferriage of motor vehicle traffic in connection with such streets, if any, in any incorporated cities and towns shall form a part of the route of state highways and between the first and fifteenth days of July of any year the department of transportation shall certify to the clerk of each city or town, by brief description, the streets, together with the bridges thereon and wharves, if any, in such city or town which are designated as forming a part of the route of

any state highway; and all such streets, including curbs and gutters and street intersections and such bridges and wharves, shall thereafter be a part of the state highway system and as such shall be constructed and maintained by the department of transportation from any state funds available therefor: *Provided*, That the responsibility for the construction and maintenance of any such street together with its appurtenances may be returned to a city or a town upon certification by the department of transportation to the state auditor and to the clerk of any city or town that such street, or portion thereof, is no longer required as a part of the state highway system: *Provided further*, That any such certification that a street, or portion thereof, is no longer required as a part of the state highway system shall be made between the first and fifteenth of July following the determination by the department that such street or portion thereof is no longer required as a part of the state highway system, but this shall not prevent the department and any city or town from entering into an agreement that a city or town will accept responsibility for such a street or portion thereof at some time other than between the first and fifteenth of July of any year. [1977 1st ex.s. c 151 § 57; 1973 c 95 § 3; 1961 c 13 § 47.24.010. Prior: 1959 c 160 § 1; 1957 c 83 § 2; 1955 c 179 § 2; 1949 c 220 § 5, part; 1945 c 250 § 1, part; 1943 c 82 § 10, part; 1937 c 187 § 61, part; Rem. Supp. 1949 § 6450–61, part.]

47.24.020 Jurisdiction, control of such streets. The jurisdiction, control and duty of the state and city or town with respect to such streets shall be as follows:

(1) The state highway commission shall have no authority to change or establish any grade of any such street without approval of the governing body of such city or town, except with respect to limited access facilities established by the state highway commission;

(2) The city or town shall exercise full responsibility for and control over any such street beyond the curbs and if no curb is installed, beyond that portion of the highway used for highway purposes: *Provided*, That within incorporated cities and towns the title to a state limited access highway shall vest in the state, and, notwithstanding any other provision of this section, the Washington state highway commission shall exercise full jurisdiction, responsibility and control to, and over, such facility as provided in chapter 47.52 RCW, as amended;

(3) The state highway commission shall have authority to prohibit the suspension of signs, banners, or decorations above the portion of such street between the curbs or portion used for highway purposes up to a vertical height of twenty feet above the surface of the roadway;

(4) The city or town shall at its own expense maintain all underground facilities in such streets, and shall have the right to construct such additional underground facilities as may be necessary in such streets;

(5) The city or town shall have the right to grant the privilege to open the surface of any such street, but all damage occasioned thereby shall promptly be repaired either by the city or town itself or at its direction;

(6) The city or town at its own expense shall provide street illumination and shall clean all such streets,

including storm sewer inlets and catch basins, and remove all snow, except that the state shall when necessary plow the snow on the roadway: *Provided*, That in cities and towns having a population of fifteen thousand or less according to the latest determination of population by the state census board, the state, when necessary for public safety, shall assume, at its expense, responsibility, for the stability of the slopes of cuts and fills and the embankments within the right of way to protect the roadway itself: *Provided further*, That the state shall install, maintain and operate all illuminating facilities on any limited access facility, together with their interchanges, located within the corporate limits of any city or town, and shall assume and pay the costs of all such installation, maintenance and operation incurred after November 1, 1954;

(7) The state highway commission shall have the right to utilize all storm sewers on such highways without cost; and if new storm sewer facilities are necessary in construction of new streets by the state highway commission, the cost of such facilities shall be borne by the state and/or city as may be mutually agreed upon between the state highway commission and the governing body of the city or town;

(8) Cities and towns shall have exclusive right to grant franchises, not in conflict with state laws, over, beneath and upon such streets but the state highway commission shall be authorized to enforce in an action brought in the name of the state any condition of any franchise which a city or town shall have granted on such street: *Provided*, That no franchise for transportation of passengers in motor vehicles shall be granted on such streets without the approval of the state highway commission but the state highway commission shall not refuse to approve such franchise unless another street conveniently located and of strength of construction to sustain travel of such vehicles is accessible;

(9) Every franchise or permit granted any person by a city or town for use of any portion of such street by a public utility shall require the grantee or permittee to restore, repair and replace to its original condition any portion of the street damaged or injured by it;

(10) The city or town shall have the right to issue overload or overwidth permits for vehicles to operate on such streets or roads subject to regulations printed and distributed to the cities and towns by the state highway commission;

(11) Cities and towns shall regulate and enforce all traffic and parking restrictions on such streets, but all regulations adopted by a city or town relating to speed, parking, and traffic control devices on such streets not identical to state law relating thereto shall be subject to the approval of the state highway commission before becoming effective. All regulations pertaining to speed, parking, and traffic control devices relating to such streets heretofore adopted by a city or town not identical with state laws shall become null and void unless approved by the state highway commission heretofore or within one year after March 21, 1963;

(12) The state highway commission shall erect, control and maintain at state expense all route markers, and directional signs, except street signs, on such streets;

(13) The state highway commission shall install, operate, maintain and control at state expense all traffic control signals, signs and traffic control devices for the purpose of regulating both pedestrian and motor vehicular traffic on, entering upon, or leaving state highways in cities and towns having a population of fifteen thousand or less according to the latest determination of population by the state census board: *Provided*, That such cities and towns may submit to the state highway commission a plan for traffic control signals, signs and traffic control devices desired by them, indicating the location, nature of installation, or type thereof, or a proposed amendment to such an existing plan or installation, and the state highway commission shall consult with the cities or towns concerning the same prior to installing such signals, signs, or devices. Cities and towns having a population in excess of fifteen thousand according to the latest determination of population by the state census board shall install, maintain, operate and control such signals, signs and devices at their own expense, subject to approval of the state highway commission for the installation and type only. For the purpose of this subdivision striping, lane marking and channelization are considered traffic control devices;

(14) All revenue from parking meters placed on such streets shall belong to the city or town;

(15) Rights of way for such streets shall be acquired by either the city or town or by the state as shall be mutually agreed upon. Costs of acquiring rights of way may be at the sole expense of the state or at the expense of the city or town or at the expense of the state and the city or town as may be mutually agreed upon. Title to all such rights of way acquired by a city or town shall immediately vest in the city or town. Title to all rights of way acquired by the state shall remain in the state until actually used for construction or other street purpose. Upon completion of such construction, the rights of way actually used for street purposes shall be conveyed to the city or town by deed executed by the director of highways and duly acknowledged. No vacation, sale, or rental of any unused portion of any such street shall be made by the city or town without the approval of the state highway commission; and all revenue derived from sale, vacation, or rental of such rights of way shall be shared by the city or town and the state in the same proportion as the purchase costs were shared;

(16) If any city or town shall fail to perform any of its obligations as set forth in this section or in any cooperative agreement entered into with the state highway commission for the maintenance of a city or town street forming part of the route of a state highway, the state highway commission may notify the mayor of such town to perform such necessary maintenance within thirty days. If the city or town within such thirty days shall fail to perform such maintenance or fail to authorize the state highway commission to perform such maintenance as provided by RCW 47.24.050, the state highway commission may perform such maintenance, the cost of which is to be deducted from any sums in the motor vehicle fund credited or to be credited to such city or town. [1977 1st ex.s. c 78 § 7; 1967 c 115 § 1; 1963 c 150 § 1; 1961 c 13 § 47.24.020. Prior: 1957 c 83 § 3;

1955 c 179 § 3; 1953 c 193 § 1; 1949 c 220 § 5, part; 1945 c 250 § 1, part; 1943 c 82 § 10, part; 1937 c 187 § 61, part; Rem. Supp. 1949 § 6450-61, part.]

Reviser's notes: (1) Powers, duties, and functions of highway commission and director of highways transferred to department of transportation; see RCW 47.01.031. Term "state highway commission" means department of transportation; term "director of highways" means secretary of transportation; see RCW 47.04.015.

(2) The state census board was abolished, and its powers, duties, and functions transferred to the planning and community affairs agency by 1967 ex.s. c 42 (chapter 43.63A RCW).

Chapter 47.26

DEVELOPMENT IN URBAN AREAS—URBAN ARTERIALS

Sections

- 47.26.040 "Urban area" defined.
 47.26.080 Urban arterial trust account—Created in motor vehicle fund—Expenditures from.
 47.26.140 Urban arterial board—Staff services and facilities—Payment of costs and expenses—Executive secretary.
 47.26.160 Urban arterial board—Powers and duties.
 47.26.180 Division of roads or streets into arterial or access roads or streets—Classification of arterials—Review and revision by board.
 47.26.190 Apportionment of funds in urban arterial trust account among regions.
 47.26.240 Review of city or county six year program by urban arterial board—Revision.
 47.26.270 Matching funds requirements for counties and cities receiving funds from urban arterial trust account.
 47.26.281 Urban arterial trust funds initially authorized in 1967-69 biennium—Obligation continued, limitations.

BOND ISSUE—STATE HIGHWAYS IN URBAN AREAS

- 47.26.405 Bonds—Designation of funds to repay bonds and interest.

BOND ISSUE—COUNTY AND CITY ARTERIALS IN URBAN AREAS

- 47.26.420 Issuance and sale of general obligation bonds—Authorized—Amount—Declaration of purpose.
 47.26.424 Bonds—Statement describing nature of obligation—Pledge of excise taxes.
 47.26.425 Bonds—Designation of funds to repay bonds and interest—Urban arterial trust account.
 47.26.4251 Bonds—Series II bonds—Designation of funds to repay bonds and interests—Urban arterial trust account.

47.26.040 "Urban area" defined. The term "urban area" means every area of this state designated as an urban area by the state highway commission with the approval of the federal secretary of transportation in accordance with federal law, hereafter referred to as federally approved urban areas, or areas within incorporated cities. [1977 1st ex.s. c 317 § 12; 1975 1st ex.s. c 253 § 1; 1967 ex.s. c 83 § 10.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "state highway commission" means department of transportation; see RCW 47.04.015.

Effective dates—Severability—1977 1st ex.s. c 317: See notes following RCW 82.36.010.

47.26.080 Urban arterial trust account—Created in motor vehicle fund—Expenditures from. There is

hereby created in the motor vehicle fund the urban arterial trust account. All moneys deposited in the motor vehicle fund to be credited to the urban arterial trust account shall be expended for the construction and improvement of city arterial streets and county arterial roads within urban areas, for expenses of the urban arterial board, or for the payment of principal or interest on bonds issued for the purpose of constructing or improving city arterial streets and county arterial roads within urban areas, or for reimbursement to the state, counties, cities, and towns in accordance with RCW 47.26.4251, the amount of any payments made on principal or interest on urban arterial trust account bonds from motor vehicle or special fuel tax revenues which were distributable to the state, counties, cities, and towns. [1977 1st ex.s. c 317 § 22; 1967 ex.s. c 83 § 14.]

Effective dates—Severability—1977 1st ex.s. c 317: See notes following RCW 82.36.010.

47.26.140 Urban arterial board—Staff services and facilities—Payment of costs and expenses—Executive secretary. The department of transportation shall furnish necessary staff services and facilities required by the urban arterial board. The cost of such services, together with travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, of the members and all other lawful expenses of the board, shall be paid from the urban arterial trust account in the motor vehicle fund. The urban arterial board may appoint an executive secretary who shall serve at its pleasure and whose salary shall be set by the board and paid from the urban arterial trust account in the motor vehicle fund. [1977 1st ex.s. c 151 § 58; 1975-'76 2nd ex.s. c 34 § 140; 1969 ex.s. c 171 § 3; 1967 ex.s. c 83 § 20.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

47.26.160 Urban arterial board—Powers and duties. The urban arterial board shall:

(1) Adopt rules and regulations necessary to implement the provisions of this chapter relating to the allocation of funds in the urban arterial trust account of the motor vehicle fund to counties and cities.

(2) Adopt reasonably uniform design standards for city and county arterials which meet the requirements for urban development.

(3) Report biennially on the first day of November of the even-numbered years to the state highway commission, the legislative transportation committee, and the house and senate transportation committees regarding progress of cities and counties in developing long range plans for their urban arterial construction and programming or urban arterial construction work and the allocation of urban arterial trust funds to the cities and counties. [1977 1st ex.s. c 235 § 17; 1971 ex.s. c 291 § 1; 1967 ex.s. c 83 § 22.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "state highway commission" means department of transportation; see RCW 47.04.015.

47.26.180 Division of roads or streets into arterial or access roads or streets—Classification of arterials—Review and revision by board. Arterial designation and classification, as provided for by this chapter, shall be required to be an integral and coordinated portion of its planning process as authorized by chapters 35.63 or 36.70 RCW. The legislative authority of each county and city lying within or having within its boundaries an urban area shall with the advice and assistance of its chief engineer and its planning office divide all of its roads or streets into arterial roads or streets and access roads or streets and shall further subdivide the arterials into three functional classes to be known as major arterials, secondary arterials, and collector arterials, all in accordance with uniform standards established by the urban arterial board: *Provided*, That incorporated cities lying outside federally approved urban areas shall not be required to subdivide arterials into functional classes. Upon receipt of the classification plans of the several counties and cities, the urban arterial board shall review and revise the classification for the urban arterials as necessary to conform with its uniform standards for classifying urban arterials. [1977 1st ex.s. c 317 § 13; 1975 1st ex.s. c 253 § 2; 1967 ex.s. c 83 § 24.]

Effective dates—Severability—1977 1st ex.s. c 317: See notes following RCW 82.36.010.

47.26.190 Apportionment of funds in urban arterial trust account among regions. (1) At the beginning of each biennium the urban arterial board shall establish apportionment percentages for the five regions defined in RCW 47.26.050 in the manner prescribed in RCW 47.26.060 for that biennium, except calculations of needs shall be based upon a projection of needs for the ensuing six year period as determined by the state highway commission. Except as otherwise provided in subsection (3) of this section, such apportionment percentages shall be used once each calendar quarter by the urban arterial board to apportion funds credited to the urban arterial trust account which are available for expenditure for urban arterial projects. The funds so apportioned shall remain apportioned until expended on construction projects in accordance with rules and regulations of the urban arterial board.

(2) All amounts credited to the urban arterial trust account, except those provided for in subsection (3) of this section and except proceeds from the sale of first authorization bonds and any funds that may be required to repay such bonds or the interest thereon when due, after apportionment to each region, shall be divided on the basis of relative population established at the beginning of each biennium by the office of program planning and fiscal management between (a) the group of cities and that portion of those counties within federally approved urban areas and (b) the group of incorporated cities outside the boundaries of federally approved urban areas. Within each region, funds divided between the groups identified under (a) and (b) above shall then be allocated by the urban arterial board to incorporated cities and counties, as the case may be, for the construction of specific urban arterial projects in accordance with the procedures set forth in RCW 47.26.240.

(3) At the beginning of each biennium the urban arterial board shall establish apportionment percentages for each of the five regions for the apportionment of the proceeds from the sale of fifteen million dollars of series II bonds authorized by RCW 47.26.420, as now or hereafter amended, in the ratio which the population of the incorporated cities and towns lying outside the boundaries of federally approved urban areas of each region bears to the total population of all incorporated cities and towns of the state lying outside the boundaries of federally approved urban areas, as such populations are determined at the beginning of each biennium by the office of program planning and fiscal management. Such apportionment percentages shall be used once each calendar quarter by the urban arterial board to apportion funds credited to the urban arterial trust account which are available for expenditure for urban arterial projects. The funds so apportioned shall remain apportioned until expended on construction projects in accordance with rules and regulations of the urban arterial board. Funds apportioned to each region shall be allocated by the urban arterial board to incorporated cities lying outside the boundaries of federally approved urban areas, for the construction of specific urban arterial projects in accordance with the procedures set forth in RCW 47.26.240. [1977 1st ex.s. c 317 § 14; 1973 1st ex.s. c 126 § 2; 1971 ex.s. c 291 § 3; 1969 ex.s. c 171 § 4; 1967 ex.s. c 83 § 25.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Effective dates—Severability—1977 1st ex.s. c 317: See notes following RCW 82.36.010.

47.26.240 Review of city or county six year program by urban arterial board—Revision. Upon receipt of a county's or city's revised six year program, the urban arterial board as soon as practicable shall review and may revise the construction program as it relates to urban arterials for which urban arterial trust account moneys are requested as necessary to conform to (1) the priority rating of the proposed project, based upon the factors in RCW 47.26.220, in relation to proposed projects in all other urban arterial construction programs submitted by the cities and counties, and within each region, projects proposed by the group of cities and counties within federally approved urban areas shall be evaluated separately from the projects proposed by the group of incorporated cities outside the boundaries of federally approved urban areas; and (2) the amount of urban arterial trust account funds which the urban arterial board estimates will be apportioned to the region, and further divided between the group of cities and counties within federally approved urban areas and the group of incorporated cities outside the boundaries of federally approved urban areas, in the ensuing six year period. [1977 1st ex.s. c 317 § 15; 1967 ex.s. c 83 § 30.]

Effective dates—Severability—1977 1st ex.s. c 317: See notes following RCW 82.36.010.

47.26.270 Matching funds requirements for counties and cities receiving funds from urban arterial trust

account. Counties and cities receiving funds from the urban arterial trust account for construction of arterials shall provide such matching funds as shall be established by regulations recommended by the urban arterial board subject to review, revision, and final approval by the state highway commission. Matching requirements shall be established after appropriate studies by the board taking into account (1) financial resources available to counties and cities to meet arterial needs, (2) the amounts and percentages of funds available for road or street construction traditionally expended by counties and cities on arterials, (3) in the case of counties, the relative needs of arterials lying outside urban areas, and (4) the requirements necessary to avoid diversion of funds traditionally expended for arterial construction to other street or road purposes or to nonhighway purposes: *Provided however,* That for projects funded subsequent to *the effective date of this 1977 amendatory act, and prior to July 1, 1983, cities and counties may use as matching funds any moneys received from any source, except such moneys which by law may not be used for the purposes set forth in this chapter. [1977 1st ex.s. c 317 § 16; 1967 ex.s. c 83 § 33.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "state highway commission" means department of transportation; see RCW 47.04.015.

***Effective dates—Severability—1977 1st ex.s. c 317:** See notes following RCW 82.36.010.

47.26.281 Urban arterial trust funds initially authorized in 1967–69 biennium—Obligation continued, limitations. Urban arterial trust funds initially authorized by the state urban arterial board in the 1967–69 biennium for specific projects in cities over three hundred thousand population, as last determined by the office of program planning and fiscal management, shall remain obligated to such projects for the period through June 30, 1978, unless such project is earlier withdrawn or abandoned by the sponsoring city. This continued obligation of urban arterial trust funds shall be terminated for any project if the sponsoring city earlier provides written notice of withdrawal or abandonment of the project to the urban arterial board or if the city acts to expend any other funds, exclusive of the required matching funds, which have heretofore been allocated or set aside to pay a part of the costs of such project.

After June 30, 1975, no additional urban arterial trust funds shall be expended for conceptual or feasibility studies of any project initially authorized prior to June 30, 1969 in a city of over three hundred thousand population, but such limitation shall not apply to the cost of preparing final plans, specifications and estimates or other contract documents required to advertise the project for competitive bids for its construction. [1977 1st ex.s. c 214 § 1; 1975 1st ex.s. c 267 § 4.]

BOND ISSUE—STATE HIGHWAYS IN URBAN AREAS

47.26.405 Bonds—Designation of funds to repay bonds and interest. Any funds required to repay such bonds, or the interest thereon when due shall be taken from that portion of the motor vehicle fund which results from the imposition of excise taxes on motor vehicle and special fuels and which is distributed to the state under the provisions of RCW 46.68.100(6) as now or hereafter amended for construction of state highways in urban areas, and shall never constitute a charge against any allocations of any other such funds to the state, counties, cities, and towns unless and until the amount of the motor vehicle fund arising from the excise taxes on motor vehicle and special fuels and available to the state for construction of state highways in urban areas proves insufficient to meet the requirements for bond retirement or interest on any such bonds. [1977 1st ex.s. c 317 § 17; 1967 ex.s. c 83 § 41.]

Effective dates—Severability—1977 1st ex.s. c 317: See notes following RCW 82.36.010.

BOND ISSUE—COUNTY AND CITY ARTERIALS IN URBAN AREAS

47.26.420 Issuance and sale of general obligation bonds—Authorized—Amount—Declaration of purpose. In order to provide funds necessary to meet the urgent construction needs on county and city arterials within urban areas, there are hereby authorized for issuance general obligation bonds of the state of Washington, the first authorization of which shall be in the sum of two hundred million dollars, and the second authorization of which, to be known as series II bonds, shall be in the sum of sixty million dollars which shall be issued and sold in such amounts and at such times as determined to be necessary by the state highway commission. The amount of such bonds issued and sold under the provisions of RCW 47.26.420 through 47.26.427 in any biennium shall not exceed the amount of a specific appropriation therefor, from the proceeds of such bonds, for the construction of county and city arterials in urban areas. The issuance, sale, and retirement of said bonds shall be under the supervision and control of the state finance committee which, upon request being made by the state highway commission, shall provide for the issuance, sale, and retirement of coupon or registered bonds to be dated, issued, and sold from time to time in such amounts as shall be requested by the state highway commission. [1977 1st ex.s. c 317 § 18; 1973 1st ex.s. c 169 § 4; 1967 ex.s. c 83 § 45.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "state highway commission" means department of transportation; see RCW 47.04.015.

Effective dates—Severability—1977 1st ex.s. c 317: See notes following RCW 82.36.010.

47.26.424 Bonds—Statement describing nature of obligation—Pledge of excise taxes. Bonds issued

under the provisions of RCW 47.26.420 through 47.26.427 shall distinctly state that they are a general obligation 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 and interest on such bonds shall be first payable in the manner provided in RCW 47.26.420 through 47.26.427 from the proceeds of state excise taxes on motor vehicle and special fuels imposed by chapters 82.36, 82.37, and 82.38 RCW. The proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW 47.26.420 through 47.26.427, and the legislature hereby agrees to continue to impose the same excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the provisions of RCW 47.26.420 through 47.26.427. [1977 1st ex.s. c 317 § 19; 1973 1st ex.s. c 169 § 6; 1967 ex.s. c 83 § 49.]

Effective dates—Severability—1977 1st ex.s. c 317: See notes following RCW 82.36.010.

47.26.425 Bonds—Designation of funds to repay bonds and interest—Urban arterial trust account. Any funds required to repay the first authorization of two hundred million dollars of bonds authorized by RCW 47.26.420, as amended by section 18, chapter 317, Laws of 1977 1st ex. sess. or the interest thereon when due, shall be taken from that portion of the motor vehicle fund which results from the imposition of excise taxes on motor vehicle and special fuels and which is distributed to the urban arterial trust account in the motor vehicle fund, and shall never constitute a charge against any allocations of any other such funds in the motor vehicle fund to the state, counties, cities, and towns unless and until the amount of the motor vehicle fund arising from the excise tax on motor vehicle and special fuels and distributed to the urban arterial trust account proves insufficient to meet the requirements for bond retirement or interest on any such bonds. [1977 1st ex.s. c 317 § 20; 1967 ex.s. c 83 § 50.]

Effective dates—Severability—1977 1st ex.s. c 317: See notes following RCW 82.36.010.

47.26.4251 Bonds—Series II bonds—Designation of funds to repay bonds and interests—Urban arterial trust account. Any funds required to repay the authorization of series II bonds authorized by RCW 47.26.420, as amended by section 18, chapter 317, Laws of 1977 1st ex. sess., or the interest thereon when due, shall be taken from that portion of the motor vehicle fund which results from the imposition of excise taxes on motor vehicle and special fuels imposed by chapters 82.36, 82.37, and 82.38 RCW and which is distributed to the urban arterial trust account in the motor vehicle fund, subject, however, to the prior lien of the first authorization of bonds authorized by RCW 47.26.420, as amended by section 18, chapter 317, Laws of 1977 1st ex. sess. If the moneys distributed to the urban arterial trust account shall ever be insufficient to repay the

first authorization bonds together with interest thereon, and the series II bonds or the interest thereon when due, the amount required to make such payments on such bonds or interest thereon shall next be taken from that portion of the motor vehicle fund which results from the imposition of excise taxes on motor vehicle and special fuels and which is distributed to the state, counties, cities, and towns pursuant to RCW 46.68.100 as now or hereafter amended. Any payments on such bonds or interest thereon taken from motor vehicle or special fuel tax revenues which are distributable to the state, counties, cities, and towns, shall be repaid from the first moneys distributed to the urban arterial trust account not required for redemption of the first authorization bonds or series II bonds or interest on said bond issues. [1977 1st ex.s. c 317 § 21.]

Effective dates—Severability—1977 1st ex.s. c 317: See notes following RCW 82.36.010.

Chapter 47.28

CONSTRUCTION AND MAINTENANCE OF HIGHWAYS

Sections

47.28.010	Latitude in selecting route.
47.28.025	Description and plan of new or limited access highway—Recording.
47.28.026	Description and plan of new or limited access highway—Buildings and improvements prohibited, when.
47.28.030	Contracts—State forces—Monetary limits—Small businesses and minority contractors—Rules and regulations.
47.28.050	Call for bids.

47.28.010 Latitude in selecting route. Whenever the general route of any state highway shall be designated and laid out as running to or by way of certain designated points, without specifying the particular route to be followed to or by way of such points, the transportation commission shall determine the particular route to be followed by said state highway to or by way of said designated points, and shall be at liberty to select and adopt as a part of such state highway, the whole or any part of any existing public highway previously designated as a county road, primary road, or secondary road or now or hereafter classified as a county road. The commission need not select and adopt the entire routes for such state highways at one time, but may select and adopt parts of such routes from time to time as it deems advisable. Where a state highway is designated as passing by way of a certain point, this shall not require the commission to cause such state highway to pass through or touch such point but such designation is directional only and may be complied with by location in the general vicinity. The department of transportation is empowered to construct as a part of any state highway as designated and in addition to any portion meeting the limits of any incorporated city or town a bypass section either through or around any such incorporated city or town. [1977 1st ex.s. c 151 § 59; 1961 c 13 § 47.28.010. Prior: 1937 c 53 § 31; RRS § 6400–31.]

47.28.025 Description and plan of new or limited access highway—Recording. Whenever the state highway commission shall establish the location, width, and lines of any new highway, or declare any such new highway as a limited access facility and schedules the acquisition of the right of way for the highway or facility within the ensuing two years, it may cause the description and plan of any such highway to be made, showing the center line of said highway and the established width thereof and attach thereto a certified copy of the resolution, and thereupon such description, plan, and resolution shall be recorded in the office of the county auditor of the proper county in a separate book kept for such purposes, which shall be furnished to the county auditor of such county by the Washington state highway commission at the expense of the state. [1977 1st ex.s. c 225 § 1; 1961 c 13 § 47.28.025. Prior: 1955 c 161 § 1.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "Washington state highway commission" means department of transportation; see RCW 47.04.015.

47.28.026 Description and plan of new or limited access highway—Buildings and improvements prohibited, when. (1) No owner or occupier of lands, buildings or improvements shall erect any buildings or make any improvements within the limits of any such highway, location, width and lines of which have been established and recorded, as provided in RCW 47.28.025, and if any such erection and improvements shall be made, no allowances shall be had therefor by the assessment of damages. No permits for improvements within said limits shall be issued by any authority: *Provided*, That the establishment of any highway location as set forth in RCW 47.28.025 shall be ineffective after one year from the filing thereof if no action to condemn or acquire the property within said limits has been commenced within said time.

(2) Unless and until the state highway commission shall cause a plan of a proposed new highway or limited access facility to be recorded in the office of the county auditor as authorized in RCW 47.28.025, nothing contained in RCW 47.28.025 or 47.28.026 shall be deemed to restrict or restrain in any manner the improvement, development, or other use by owners or occupiers of lands, buildings, or improvements within the limits of any proposed new or limited access highway or any proposed relocated or widened highway. Because of the uncertainties of federal aid and the state level of funding of proposed construction or improvement of state highways, plans for such improvements approved by the state highway commission shall be deemed tentative until filed with the county auditor as authorized in RCW 47.28.025 or until the department of highways commences action to condemn or otherwise acquire the right of way for such highway improvements. [1977 1st ex.s. c 225 § 2; 1961 c 13 § 47.28.026. Prior: 1955 c 161 § 2.]

Reviser's note: Powers, duties, and functions of highway commission and highway department transferred to department of transportation; see RCW 47.01.031. Terms "state highway commission" and "department of highways" mean department of transportation; see RCW 47.04.015.

47.28.030 Contracts—State forces—Monetary limits—Small businesses and minority contractors—Rules and regulations. A state highway shall be constructed, altered, repaired, or improved, and improvements located on property acquired for right of way purposes may be repaired or renovated pending the use of such right of way for highway purposes, by contract or state forces. The work or portions thereof may be done by state forces when the estimated costs thereof is less than fifteen thousand dollars: *Provided*, When delay of performance of such work would jeopardize a state highway or constitute a danger to the traveling public, the work may be done by state forces when the estimated cost thereof is less than twenty-five thousand dollars. When the state highway commission determines to do the work by state forces, it shall enter a resolution upon its records to that effect, stating the reasons therefor. To enable a larger number of small businesses and minority contractors to effectively compete for highway department contracts, the state highway commission may adopt rules and regulations providing for bids and award of contracts for the performance of work, or furnishing equipment, materials, supplies, or operating services whenever any work is to be performed and the engineer's estimate indicates the cost of the work would not exceed fifty thousand dollars. The rules and regulations adopted under this section:

(1) Shall provide for competitive bids to the extent that competitive sources are available except when delay of performance would jeopardize life or property or inconvenience the traveling public; and

(2) Need not require the furnishing of a bid deposit nor a performance bond, but in the event such a performance bond is not required then progress payments to the contractor may be required to be made based on submittal of paid invoices to substantiate proof that disbursements have been made to laborers, materialmen, mechanics, and subcontractors from the previous partial payment; and

(3) May establish prequalification standards and procedures as an alternative to those set forth in RCW 47.28.070, but the prequalification standards and procedures under RCW 47.28.070 shall always be sufficient. [1977 1st ex.s. c 225 § 3; 1973 c 116 § 1; 1971 ex.s. c 78 § 1; 1969 ex.s. c 180 § 2; 1967 ex.s. c 145 § 40; 1961 c 233 § 1; 1961 c 13 § 47.28.030. Prior: 1953 c 29 § 1; 1949 c 70 § 1, part; 1943 c 132 § 1, part; 1937 c 53 § 41, part; Rem. Supp. 1949 § 6400-41, part.]

Reviser's note: Powers, duties, and functions of highway commission and highway department transferred to department of transportation; see RCW 47.01.031. Terms "state highway commission" and "highway department" mean department of transportation; see RCW 47.04.015.

47.28.050 Call for bids. Except as may be provided by rules and regulations adopted under RCW 47.28.030 as now or hereafter amended the Washington state highway commission shall publish a call for bids for the construction of the highway according to the maps, plans, and specifications, once a week for at least two consecutive weeks, next preceding the day set for receiving and opening the bids, in not less than one trade

paper of general circulation in the state. The call shall state the time, place, and date for receiving and opening the bids, give a brief description of the location and extent of the work, and contain such special provisions or specifications as the commission deems necessary: *Provided*, That when the estimated cost of any contract to be awarded is less than twenty-five thousand dollars, the call for bids need only be published in one paper of general circulation in the county where the major part of the work is to be performed: *Provided further*, That when the estimated cost of a contract to be awarded is seven thousand five hundred dollars or less, including the cost of materials, supplies, engineering, and equipment, the state highway commission need not publish a call for bids: *Provided further*, That after a bid call has been advertised for two consecutive weeks it may be postponed and the bids opened one week later. [1977 c 65 § 1; 1973 c 116 § 2; 1969 ex.s. c 180 § 1; 1961 c 13 § 47.28.050. Prior: 1959 c 319 § 33; 1955 c 147 § 1; 1937 c 53 § 33; RRS § 6400-33.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "Washington state highway commission" means department of transportation; see RCW 47.04.015.

Chapter 47.36

TRAFFIC CONTROL DEVICES

Sections

47.36.020	Traffic control signals.
47.36.030	Traffic control devices—Specifications to be furnished to counties and cities.

47.36.020 Traffic control signals. The secretary of transportation shall adopt specifications for a uniform system of traffic control signals consistent with the provisions of this title for use upon public highways within this state. Such uniform system shall correlate with and so far as possible conform to the system current as approved by the American Association of State Highway Officials and as set out in the manual of uniform traffic control devices for streets and highways. [1977 1st ex.s. c 151 § 60; 1961 c 13 § 47.36.020. Prior: 1937 c 53 § 50; RRS § 6400-50; prior: 1927 c 309 § 6; RRS § 6362-6.]

47.36.030 Traffic control devices—Specifications to be furnished to counties and cities. The secretary of transportation shall have the power and it shall be its duty to adopt and designate a uniform state standard for the manufacture, display, erection, and location of all signs, signals, signboards, guideposts, and other traffic devices erected or to be erected upon the state highways of the state of Washington for the purpose of furnishing information to persons traveling upon such state highways regarding traffic regulations, directions, distances, points of danger, and conditions requiring caution, and for the purpose of imposing restrictions upon persons operating vehicles thereon. Such signs shall conform as nearly as practicable to the manual of specifications for the manufacture, display, and erection of uniform traffic

control devices for streets and highways and all amendments, corrections, and additions thereto. The department of transportation shall prepare plans and specifications of the uniform state standard of traffic devices so adopted and designated, showing the materials, colors, and designs thereof, and shall upon the issuance of any such plans and specifications or revisions thereof and upon request, furnish to the boards of county commissioners and the governing body of any incorporated city or town, a copy thereof. Signs, signals, signboards, guideposts, and other traffic devices erected on county roads shall conform in all respects to the specifications of color, design, and location approved by the secretary. Traffic devices hereafter erected within incorporated cities and towns shall conform to such uniform state standard of traffic devices so far as is practicable. [1977 1st ex.s. c 151 § 61; 1961 c 13 § 47.36.030. Prior: 1945 c 178 § 1, part; 1937 c 53 § 48, part; Rem. Supp. 1945 § 6400-48, part; prior: 1931 c 118 § 1, part; RRS § 6308-1, part; 1923 c 102 § 1, part; 1917 c 78 § 1, part; RRS § 6303, part.]

Chapter 47.42

HIGHWAY ADVERTISING CONTROL ACT— SCENIC VISTAS ACT

Sections

47.42.020	Definitions.
47.42.055	Roadside area information panels or displays.
47.42.107	Compensation for removal of signs pursuant to local government authority.
47.42.150	Repealed.

47.42.020 Definitions. When used in this chapter the term:

- (1) "Commission" means the Washington state highway commission;
- (2) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish;
- (3) "Interstate system" means any state highway which is or does become part of the national system of interstate and defense highways as described in section 103(d) of title 23, United States Code;
- (4) "Maintain" means to allow to exist;
- (5) "Person" means this state or any public or private corporation, firm, partnership, association, as well as any individual or individuals;
- (6) "Primary system" means any state highway which is or does become part of the federal-aid primary system as described in section 103(b) of title 23, United States Code;
- (7) "Scenic system" means (a) any state highway within any public park, federal forest area, public beach, public recreation area, or national monument, (b) any state highway or portion thereof outside the boundaries of any incorporated city or town designated by the legislature as a part of the scenic system, or (c) any state highway or portion thereof, outside the boundaries of any incorporated city or town, designated by the legislature as a part of the scenic and recreational highway

system except for the sections of highways specifically excluded in RCW 47.42.025;

(8) "Sign" means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform any part of the advertising or informative contents of which is visible from any place on the main-traveled way of the interstate system or other state highway;

(9) "Commercial and industrial areas" means any area zoned commercial or industrial by a county or municipal code, or if unzoned by a county or municipal code, that area occupied by three or more separate and distinct commercial and/or industrial activities within a space of five hundred feet and the area within five hundred feet of such activities on both sides of the highway. The area shall be measured from the outer edges of the regularly used buildings, parking lots, or storage or processing areas of the commercial or industrial activity and not from the property lines of the parcels upon which such activities are located. Measurements shall be along or parallel to the edge of the main traveled way of the highway. The following shall not be considered commercial or industrial activities:

(a) Agricultural, forestry, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands;

(b) Transient or temporary activities;

(c) Railroad tracks and minor sidings;

(d) Signs;

(e) Activities more than six hundred and sixty feet from the nearest edge of the right of way;

(f) Activities conducted in a building principally used as a residence.

Should any commercial or industrial activity, which has been used in defining or delineating an unzoned area, cease to operate for a period of six continuous months, any signs located within the former unzoned area shall become nonconforming and shall not be maintained by any person after three years from May 10, 1971.

(10) "Specific information panel" means a panel, rectangular in shape, located in the same manner as other official traffic signs readable from the main traveled ways, and consisting of:

(a) The words "GAS", "FOOD", or "LODGING" and directional information; and

(b) One or more individual business signs mounted on the panel;

(11) "Business sign" means a separately attached sign mounted on the specific information panel or roadside area information panel to show the brand or trademark and name, or both, of the motorist service available on the crossroad at or near the interchange. Nationally, regionally, or locally known commercial symbols or trademarks for service stations, restaurants, and motels shall be used when applicable. The brand or trademark identification symbol used on the business sign shall be reproduced with the colors and general shape consistent with customary use. Any messages, trademarks, or brand symbols which interfere with, imitate, or resemble any official warning or regulatory traffic sign, signal, or device are prohibited;

(12) "Roadside area information panel or display" means a panel or display located so as not to be readable from the main traveled way, erected in a safety rest area, scenic overlook, or similar roadside area, for providing motorists with information in the specific interest of the traveling public. [1977 1st ex.s. c 258 § 1; 1974 ex.s. c 80 § 1; 1971 ex.s. c 62 § 1; 1961 c 96 § 2.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "Washington state highway commission" means department of transportation; see RCW 47.04.015.

47.42.055 Roadside area information panels or displays. The commission is authorized to permit the erection of roadside area information panels or displays adjacent to the state highway system within this state. The commission shall contract with private persons for the erection and operation of the information panels or displays. Compensation to the contractors shall be derived solely from the reasonable fees which the contractors will be permitted to charge participating businesses for making and exhibiting business signs and displays and for rendering services to tourists. No state funds will be expended in materials, personnel, or in any other form for the construction, fabrication, printing, painting, selling or maintenance of these panels or displays. [1977 1st ex.s. c 258 § 2.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "commission" means department of transportation; see RCW 47.04.015.

Report to legislature on roadside area information program: "In January of 1979 the commission shall make a report to the forty-sixth legislature on the public benefit derived, if any, from the roadside area information panels or displays it has established and shall make recommendations for the extension or curtailment of the roadside area information program." [1977 1st ex.s. c 258 § 3.]

47.42.107 Compensation for removal of signs pursuant to local government authority. (1) Just compensation shall be paid upon the removal of any existing sign pursuant to the provisions of any resolution or ordinance of any county, city, or town of the state of Washington by such county, city, or town if:

(a) Such sign was lawfully in existence on May 10, 1971 (the effective date of the Scenic Vistas Act of 1971); or

(b) Such sign was erected subsequent to May 10, 1971 (the effective date of the Scenic Vistas Act of 1971), in compliance with existing state and local law.

(2) Such compensation shall be paid in the same manner as specified in RCW 47.42.102(2) for the following:

(a) The taking from the owner of such sign, display, or device of all right, title, leasehold, and interest in such sign, display, or device; and

(b) The taking from the owner of the real property on which the sign, display, or device is located, of the right to erect and maintain such signs, displays, and devices thereon. [1977 1st ex.s. c 141 § 1.]

Severability—1977 1st ex.s. c 141: "If any provision of this 1977 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." [1977 1st ex.s. c 141 § 2.] This applies to the enactment of RCW 47.42.107.

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

Chapter 47.48

CLOSING HIGHWAYS AND RESTRICTING TRAFFIC

Sections

47.48.010	Closure or restriction authorized—Restricting use of portion of highway to urban public transportation system use.
47.48.020	Notice of closure or restriction—Emergency closure.
47.48.040	Penalty.

47.48.010 Closure or restriction authorized—Restricting use of portion of highway to urban public transportation system use. Whenever the condition of any state highway, county road, or city street, either newly or previously constructed, altered, repaired or improved, or any part thereof is such that for any reason its unrestricted use or continued use by vehicles or by any class of vehicles will greatly damage such state highway, county road, or city street or will be dangerous to traffic thereon or the same is being constructed, altered, repaired, improved, or maintained in such a manner as to require that use of such state highway, county road, or city street or any portion thereof be closed or restricted as to all vehicles or any class of vehicles for any period of time, the director of highways if it be a state highway, the county commissioners if it be a county road, or the governing body of any city or town if it be a city street, is authorized to close such state highway, county road, or city street, as the case may be, to travel by all vehicles or by any class of vehicles, or may declare a lower maximum speed thereon for any class of vehicles, for such a definite period as they shall determine: *Provided*, That nothing in the law of this state shall prevent the director of highways, county commissioners, or governing body of any city or town from classifying vehicles according to gross weight, axle weight, height, width, length, braking area, performance, vehicle combinations, or tire equipment for the purposes of this section, or from restricting the use of any portion of any state highway, county road, or city street, as the case may be, to its use by an urban public transportation system. [1977 1st ex.s. c 216 § 1; 1967 c 108 § 9; 1961 c 13 § 47.48.010. Prior: 1937 c 53 § 65; RRS § 6400–65; prior: 1929 c 214 § 1; 1927 c 232 § 1; 1921 c 21 § 1; RRS § 6839.]

Reviser's note: Powers, duties, and functions of director of highways transferred to department of transportation; see RCW 47.01.031. Term "director of highways" means secretary of transportation; see RCW 47.04.015.

Urban public transportation system defined: RCW 47.04.082.

47.48.020 Notice of closure or restriction—Emergency closure. Before any state highway, county road, or city street is closed to, or the maximum speed limit thereon reduced for, all vehicles or any class of

vehicles, a notice thereof including the effective date shall be published in one issue of a newspaper of general circulation in the county or city or town in which such state highway, county road or city street or any portion thereof to be closed is located; and a like notice shall be posted on or prior to the date of publication of such notice in a conspicuous place at each end of the state highway, county road, or city street or portion thereof to be closed or restricted: *Provided*, That no such state highway, county road, or city street or portion thereof shall be closed sooner than three days after the publication and the posting of the notice herein provided for: *Provided, however*, That in cases of emergency the proper officers may, without publication or delay, close state highways, county roads, and city streets temporarily by posting notices at each end of the closed portion thereof and at all intersecting state highways if the closing be of a portion of a state highway, at all intersecting state highways and county roads if the closing be a portion of a county road, and at all intersecting city streets if the closing be of a city street. In all emergency cases, as herein provided, the orders of the proper authorities shall be immediately effective. [1977 1st ex.s. c 216 § 2; 1961 c 13 § 47.48.020. Prior: 1937 c 53 § 66, part; RRS § 6400–66 part; prior: 1921 c 21 § 2, part; RRS § 6840, part. Formerly RCW 47.48.020 and 47.48.030.]

47.48.040 Penalty. When any state highway, county road, or city street or portion thereof shall have been closed, or when the maximum speed limit thereon shall have been reduced, for all vehicles or any class of vehicles, as by law provided, any person, firm or corporation disregarding such closing or reduced speed limit shall be guilty of a misdemeanor, and shall in addition to any penalty for violation of the provisions of this section, be liable in any civil action instituted in the name of the state of Washington or the county or city or town having jurisdiction for any damages occasioned to such state highway, county road, or city street, as the case may be, as the result of disregarding such closing or reduced speed limit. [1977 1st ex.s. c 216 § 3; 1961 c 13 § 47.48.040. Prior: 1937 c 53 § 67; RRS § 6400–67; prior: 1921 c 21 § 3; RRS § 6841.]

Chapter 47.52

LIMITED ACCESS FACILITIES

Sections

47.52.027	Standards and rules relating to national interstate and defense highways—Construction, maintenance, access.
47.52.090	Cooperative agreements—Provision for urban public transportation systems—Title to highway—Traffic regulations—Underground utilities and overcrossings—Passenger transportation—Storm sewers—City street crossings.
47.52.135	Hearing procedure.
47.52.139	Approval by county, city, or town upon receipt of findings and order—Disapproval, request for review.
47.52.145	Modification of adopted plan without further public hearings, when.
47.52.150	State facility through city or town—Board of review, composition and appointment.

- 47.52.180 State facility through city or town—Hearing—
Findings of board—Modification of proposed plan
by stipulation.
- 47.52.210 State facility within city or town—Title to city or
town streets incorporated therein.

47.52.027 Standards and rules relating to national interstate and defense highways—Construction, maintenance, access. The secretary of transportation may adopt design standards, rules, and regulations relating to construction, maintenance, and control of access of the national system of interstate and defense highways within this state as it deems advisable to properly control access thereto, to preserve the traffic-carrying capacity of such highways, and to provide the maximum degree of safety to users thereof. In adopting such standards, rules, and regulations the secretary shall take into account the policies, rules, and regulations of the United States secretary of commerce and the federal highway administration relating to the construction, maintenance, and operation of the system of interstate and defense highways. The standards, rules, and regulations so adopted by the secretary shall constitute the public policy of this state and shall have the force and effect of law. [1977 1st ex.s. c 151 § 62; 1961 c 13 § 47.52.027. Prior: 1959 c 319 § 35. Formerly RCW 47.28.160.]

Nonmotorized traffic may be prohibited: RCW 46.61.160.

47.52.090 Cooperative agreements—Provision for urban public transportation systems—Title to highway—Traffic regulations—Underground utilities and overcrossings—Passenger transportation—Storm sewers—City street crossings. The highway authorities of the state, counties, incorporated cities and towns, and municipal corporations owning or operating an urban public transportation system are authorized to enter into agreements with each other, or with the federal government, respecting the financing, planning, establishment, improvement, construction, maintenance, use, regulation, or vacation of limited access facilities in their respective jurisdictions to facilitate the purposes of this chapter. Any such agreement may provide for the exclusive or nonexclusive use of a portion of such facility by street cars, trains or other vehicles forming a part of an urban public transportation system and for the erection, construction and maintenance thereon of structures and facilities of such a system including facilities for the receipt and discharge of passengers: *Provided*, That within incorporated cities and towns the title to every state limited access highway shall vest in the state, and, notwithstanding any other provision of this section, the Washington state highway commission shall exercise full jurisdiction, responsibility, and control to, and over, such highway from the time it is declared to be operational as a limited access facility by the state highway commission: *Provided, further*, That:

(1) Cities and towns shall regulate all traffic restrictions on such facilities except as provided in RCW 46.61.430 and all regulations adopted shall be subject to approval of the state highway commission before becoming effective. Nothing herein shall preclude the state patrol, any county, or city or town from enforcing

any traffic regulations and restrictions prescribed by state law, county resolution, or municipal ordinance.

(2) The city or town or franchise holder shall at its own expense maintain its underground facilities beneath the surface across the highway and shall have the right to construct such additional facilities underground or beneath the surface of the facility or necessary overcrossings of power lines and other utilities as may be necessary insofar as such facilities do not interfere with the use of the right of way for limited access highway purposes, and the city or town shall have the right to maintain any municipal utility and the right to open the surface of such highway, and the construction, maintenance until permanent repair is made, and permanent repair of such facilities shall be done in a time and manner authorized by permit to be issued by the state highway commission or its authorized representative, except to meet emergency conditions for which no permit will be required, but any damage occasioned thereby shall promptly be repaired by the city or town itself, or at its direction. Where a city or town is required to relocate overhead facilities within the corporate limits of a city or town as a result of the construction of a limited access facility, the cost of such relocation shall be paid by the state.

(3) Cities and towns shall have the right to grant utility franchises crossing the facility underground and beneath its surface insofar as such franchises are not inconsistent with the use of the right of way for limited access facility purposes: *Provided*, That such franchises are not in conflict with state laws: *Provided further*, That the state highway commission shall be authorized to enforce, in an action brought in the name of the state, any condition of any franchise which a city or town shall have granted: *And provided further*, That no franchise for transportation of passengers in motor vehicles shall be granted on such highways without the approval of the state highway commission, except cities and towns shall not be required to obtain a franchise for the operation of municipal vehicles or vehicles operating under franchises from the city or town operating within the corporate limits of a city or town and within a radius not to exceed eight miles outside of such corporate limits for public transportation on such facilities, but such vehicles may not stop on the limited access portion of such facility to receive or to discharge passengers unless appropriate special lanes or deceleration, stopping and acceleration space is provided for such vehicles.

Every franchise or permit granted any person by a city or town for use of any portion of a limited access facility shall require the grantee or permittee to restore, permanently repair and replace to its original condition any portion of the highway damaged or injured by it. Except to meet emergency conditions, the construction and permanent repair of any limited access facility by the grantee of a franchise shall be in a time and manner authorized by permit to be issued by the state highway commission, or its authorized representative.

(4) The state highway commission shall have the right to utilize all storm sewers which are adequate and available for the additional quantity of run-off proposed to be passed through such storm sewers.

(5) The construction and maintenance of city streets over and under crossings and surface intersections of the limited access facility shall be in accordance with the governing policy entered into between the state highway commission and the association of Washington cities on June 21, 1956, or as such policy may be amended by agreement between the Washington state highway commission and the association of Washington cities. [1977 1st ex.s. c 78 § 8; 1967 c 108 § 11; 1961 c 13 § 47.52-.090. Prior: 1957 c 235 § 4; 1947 c 202 § 8; Rem. Supp. 1947 § 6402-67.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "Washington state highway commission" means department of transportation; see RCW 47.04.015.

Urban public transportation system defined: RCW 47.04.082.

47.52.135 Hearing procedure. At the hearing any representative of the county, city or town, or any other person may appear and be heard even though such official or person is not an abutting property owner. Such hearing may, at the option of the highway authority, be conducted in accordance with federal laws and regulations governing highway design public hearings. The members of such authority shall preside, or may designate some suitable person to preside as examiner. The authority shall introduce by competent evidence a summary of the proposal for the establishment of a limited access facility and any evidence that supports the adoption of the plan as being in the public interest. At the conclusion of such evidence, any person entitled to notice who has entered a written appearance shall be deemed a party to this hearing for purposes of this chapter and may thereafter introduce, either in person or by counsel, evidence and statements or counterproposals bearing upon the reasonableness of the proposal. Any such evidence and statements or counterproposals shall receive reasonable consideration by the authority before any proposal is adopted. Such evidence must be material to the issue before the authority and shall be presented in an orderly manner. [1977 c 77 § 2; 1965 ex.s. c 75 § 3.]

47.52.139 Approval by county, city, or town upon receipt of findings and order—Disapproval, request for review. Upon receipt of the findings and order adopting a plan, the county, city, or town may notify the department of transportation of its approval of such plan in writing, in which event such plan shall be final.

In the event that a county, city, or town does not approve the plan, the county, city, or town shall file its disapproval in writing with the secretary of transportation within thirty days after the mailing thereof to such mayor or county commissioner. Along with the written disapproval shall be filed a written request for a hearing before a board of review, hereinafter referred to as the board. The request for hearing shall set forth the portions of the plan of the department to which the county, city, or town objects, and shall include every issue to be considered by the board. The hearing before a board of review shall be governed by RCW 47.52.150 through 47.52.190, as now or hereafter amended. [1977 1st ex.s. c 151 § 63; 1965 ex.s. c 75 § 5.]

47.52.145 Modification of adopted plan without further public hearings, when. Whenever after the final adoption of a plan for a limited access highway by the highway commission, an additional design public hearing with respect to the facility or any portion thereof is conducted pursuant to federal law resulting in a revision of the design of the limited access plan, the highway commission may modify the previously adopted limited access plan to conform to the revised design without further public hearings providing the following conditions are met:

(1) As compared with the previously adopted limited access plan, the revised plan will not require additional or different right of way with respect to that section of highway for which the design has been revised, in excess of five percent by area; and

(2) If the previously adopted limited access plan was modified by a board of review convened at the request of a county, city, or town, the legislative authority of the county, city, or town shall approve any revisions of the plan which conflict with modifications ordered by the board of review. [1977 c 77 § 1.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "highway commission" means department of transportation; see RCW 47.04.015.

47.52.150 State facility through city or town—Board of review, composition and appointment. Upon request for a hearing before the board by any county, city, or town, a board consisting of five members shall be appointed as follows: The mayor or the county commissioners, as the case may be shall appoint two members of the board, of which one shall be a duly elected official of the city, county, or legislative district, except that of the legislative body of the county, city, or town requesting the hearing, subject to confirmation by the legislative body of the city or town; the secretary of transportation shall appoint two members of the board; and one member shall be selected by the four members thus appointed. Such fifth member shall be a licensed civil engineer or a recognized professional city or town planner, who shall be chairman of the board. In the case both the county and an included city or town request a hearing, the board shall consist of nine members appointed as follows: The mayor and the county commission shall each appoint two members from the elective officials of their respective jurisdictions, and of the four thus selected no more than two thereof may be members of a legislative body of the county, city, or town. The secretary of transportation shall appoint four members of the board. One member shall be selected by the members thus selected, and such ninth member shall be a licensed civil engineer or a recognized city or town planner, who shall be chairman of the board. Such boards as are provided by this section shall be appointed within thirty days after the receipt of such a request by the secretary. In the event the secretary or a county, city, or town shall not appoint members of the board or members thus appointed fail to appoint a fifth or ninth member of the board, as the case may be, either the secretary or the county, city, or town may apply to the

superior court of the county in which the county, city, or town is situated to appoint the member or members of the board in accordance with the provisions of this chapter. [1977 1st ex.s. c 151 § 64; 1963 c 103 § 3; 1961 c 13 § 47.52.150. Prior: 1959 c 242 § 3; 1957 c 235 § 7.]

47.52.180 State facility through city or town—Hearing—Findings of board—Modification of proposed plan by stipulation. At the conclusion of such hearing, the board shall consider the evidence taken and shall make specific findings with respect to the objections and issues within thirty days after the hearing, which findings shall approve, disapprove, or modify the proposed plan of the department of transportation. Such findings shall be final and binding upon both parties. Any modification of the proposed plan of the department of transportation made by the board of review may thereafter be modified by stipulation of the parties. [1977 1st ex.s. c 151 § 65; 1977 c 77 § 3; 1961 c 13 § 47.52.180. Prior: 1957 c 235 § 10.]

47.52.210 State facility within city or town—Title to city or town streets incorporated therein. (1) Whenever the highway commission adopts a plan for a limited access highway to be constructed within the corporate limits of a city or town which incorporates existing city or town streets, title to such streets shall remain in the city or town and the provisions of RCW 47.24.020 as now or hereafter amended shall continue to apply to such streets until such time that the highway is operated as either a partially or fully controlled access highway. Title to and full control over that portion of the city or town street incorporated into the limited access highway shall be vested in the state upon a declaration by the highway commission that such highway is operational as a limited access facility, but in no event prior to the acquisition of right of way for such highway including access rights, and not later than the final completion of construction of such highway.

(2) Upon the completion of construction of a state limited access highway within a city or town, the highway commission may relinquish to the city or town streets constructed or improved as a functional part of the limited access highway, slope easements, landscaping areas, and other related improvements to be maintained and operated by the city or town in accordance with the limited access plan. Title to such property relinquished to a city or town shall be conveyed by a deed executed by the director of highways and duly acknowledged. Relinquishment of such property to the city or town may be expressly conditioned upon the maintenance of access control acquired by the state and the continued operation of such property as a functional part of the limited access highway. [1977 1st ex.s. c 78 § 3.]

Reviser's note: Powers, duties, and functions of highway commission and director of highways transferred to department of transportation; see RCW 47.01.031. Term "highway commission" means department of transportation; term "director of highways" means secretary of transportation; see RCW 47.04.015.

Chapter 47.56

STATE TOLL BRIDGES, TUNNELS AND FERRIES

Sections	
47.56.030	Department of transportation in charge of toll facilities including state ferries for purposes of design, construction, operation, maintenance, establishment of tolls, and fiscal management.
47.56.034	Repealed.
47.56.070	Toll facilities authorized—Provisions applicable—Restrictions.
47.56.080	Construction of toll bridges and issuance of bonds authorized.
47.56.090	Authority to acquire right of way in constructing a toll bridge.
47.56.100	Toll bridges—Right of way across state highways and property of political subdivisions—Compensation.
47.56.120	Toll bridges—Construction directed—Costs.
47.56.250	Contributions by the state or political subdivision—Bonds—Repayment.
47.56.254	Sale of unneeded property—Authorized—Rules.
47.56.350	Repealed.
47.56.720	Puget Island–Westport ferry—Payments for operation and maintenance to Wahkiakum county—Toll free operation and provision of rest room facilities, when.
47.56.725	Ferry systems operated by Pierce, Skagit, and Whatcom counties—Deficit reimbursements.

47.56.030 Department of transportation in charge of toll facilities including state ferries for purposes of design, construction, operation, maintenance, establishment of tolls, and fiscal management. The department of transportation shall have full charge of the construction of all toll bridges and other toll facilities including the Washington state ferries, and the operation and maintenance thereof. The transportation commission shall determine and establish the tolls and charges thereon, and shall perform all duties and exercise all powers relating to the financing, refinancing, and fiscal management of all toll bridges and other toll facilities including the Washington state ferries, and bonded indebtedness in the manner provided by law. The department shall have full charge of design of all toll facilities. The department shall proceed with the construction of such toll bridges and other facilities and the approaches thereto by contract in the manner of state highway construction immediately upon there being made available funds for such work and shall prosecute such work to completion as rapidly as practicable. The department is authorized to negotiate contracts for any amount without bid in order to make repairs to ferries or ferry terminal facilities or removal of such facilities whenever continued use of ferries or ferry terminal facilities constitutes a real or immediate danger to the traveling public or precludes prudent use of such ferries or facilities. [1977 1st ex.s. c 151 § 66; 1969 ex.s. c 180 § 3; 1961 c 278 § 8; 1961 c 13 § 47.56.030. Prior: 1937 c 173 § 10; RRS § 6524–10.]

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

47.56.070 Toll facilities authorized—Provisions applicable—Restrictions. The department of transportation may, with the approval of the transportation

commission, provide for the establishment, construction, and operation of toll tunnels, toll roads, and other facilities necessary for their construction and connection with public highways of the state. It may cause surveys to be made to determine the propriety of their establishment, construction, and operation, and may acquire rights of way and other facilities necessary to carry out the provisions hereof; and may issue, sell, and redeem bonds, and deposit and expend them; secure and remit financial and other assistance in the construction thereof; carry insurance thereon; and handle any other matters pertaining thereto, all of which shall be conducted in the same manner and under the same procedure as provided for the establishing, constructing, operating, and maintaining of toll bridges by the department, insofar as reasonably consistent and applicable. No toll facility, toll bridge, toll road, or toll tunnel, shall be combined with any other toll facility for the purpose of financing unless such facilities form a continuous project, to the end that each such facility or project be self-liquidating and self-sustaining. [1977 1st ex.s. c 151 § 67; 1961 c 13 § 47.56.070. Prior: 1953 c 220 § 3; 1937 c 173 § 3 1/2 ; RRS § 6524-3 1/2.]

47.56.080 Construction of toll bridges and issuance of bonds authorized. Whenever in the judgment of the transportation commission it is considered in the best interest of the public highways of the state that any new toll bridge or bridges be constructed upon any public highway and across any stream, body of water, gulch, navigable water, swamp, or other topographical formation and operated by the state the commission shall adopt a resolution declaring that public interest and necessity require the construction of such toll bridge or bridges and authorizing the issuance of revenue bonds for the purpose of obtaining funds in an amount not in excess of that estimated to be required for such construction. The issuance of bonds as provided in this chapter for the construction of more than one toll bridge may at the discretion of the commission be included in the same authority and issue of bonds. [1977 1st ex.s. c 151 § 68; 1961 c 13 § 47.56.080. Prior: 1937 c 173 § 6; RRS § 6524-6.]

47.56.090 Authority to acquire right of way in constructing a toll bridge. The department of transportation is empowered to secure right of way for toll bridges and for approaches thereto by gift or purchase, or by condemnation in the manner provided by law for the taking of private property for public highway purposes. [1977 1st ex.s. c 151 § 69; 1961 c 13 § 47.56.090. Prior: 1937 c 173 § 5; RRS § 6524-5.]

47.56.100 Toll bridges—Right of way across state highways and property of political subdivisions—Compensation. The right of way is hereby given, dedicated and set apart upon which to locate, construct and maintain bridges or approaches thereto or other highway crossings, and transportation facilities thereof or thereto, through, over or across any state highways, and through, over or across the streets, alleys, lanes and roads within any city, county, or other political subdivision of the

state. If any property belonging to any city, county or other political subdivision of the state is required to be taken for the construction of any such bridge or approach thereto or should any such property be injured or damaged by such construction, such compensation therefor as may be proper or necessary and as shall be agreed upon may be paid by the Washington toll bridge authority to the particular county, city, or other political subdivision of the state owning such property, or condemnation proceedings may be brought for the determination of such compensation. [1977 1st ex.s. c 103 § 4; 1961 c 13 § 47.56.100. Prior: 1937 c 173 § 16; RRS § 6524-16.]

Reviser's note: Powers, duties, and functions of toll bridge authority transferred to department of transportation; see RCW 47.01.031. Term "Washington toll bridge authority" means department of transportation; see RCW 47.04.015.

47.56.120 Toll bridges—Construction directed—Costs. In the event that the transportation commission should determine that any toll bridge should be constructed, all cost thereof including right of way, survey, and engineering shall be paid out of any funds available for payment of the cost of such toll bridge under this chapter. [1977 1st ex.s. c 151 § 70; 1961 c 13 § 47.56.120. Prior: 1937 c 173 § 4; RRS § 6524-4.]

47.56.250 Contributions by the state or political subdivision—Bonds—Repayment. Whenever a proposed toll bridge, toll road, toll tunnel, or any other toll facility of any sort is to be constructed, any city, county, or other political subdivision located in relation to such facility so as to benefit directly or indirectly thereby, may, either jointly or separately, at the request of the transportation commission advance or contribute money, or bonds, rights of way, labor, materials, and other property toward the expense of building the toll facility, and for preliminary surveys and the preparation of plans and estimates of cost therefor and other preliminary expenses. Any such city, county, or other political subdivision may, either jointly or separately, at the request of the transportation commission advance or contribute money or bonds for the purpose of guaranteeing the payment of interest or principal on the bonds issued by the commission to finance the toll facility. Appropriations for such purposes may be made from any funds available, including county road funds received from or credited by the state, or funds obtained by excess tax levies made pursuant to law or the issuance of general obligation bonds for this purpose. General obligation bonds issued by a city, county, or political subdivision may with the consent of the commission be placed with the department of transportation to be sold by the department to provide funds for such purpose. Money, or bonds, or property so advanced or contributed may be immediately transferred or delivered to the department to be used for the purpose for which contribution was made. The commission may enter into an agreement with a city, county, or other political subdivision to repay any money, or bonds or the value of a right of way, labor, materials, or other property so advanced or contributed. The commission may make such repayment

to a city, county, or other political subdivision and reimburse the state for any expenditures made by it in connection with the toll facility out of tolls and other revenues for the use of the toll facility. [1977 1st ex.s. c 151 § 71; 1961 c 13 § 47.56.250. Prior: 1959 c 162 § 1; 1955 c 166 § 1; 1937 c 173 § 12; RRS § 6524-12.]

47.56.254 Sale of unneeded property—Authorized—Rules. If the secretary of transportation determines that any real property (including lands, improvements thereon, and any interests or estates) held by the department is no longer required for purposes of the department, the department shall offer it for sale as authorized by RCW 47.56.252 or 47.12.280. The department may adopt rules further implementing this section. [1977 1st ex.s. c 151 § 72; 1973 1st ex.s. c 177 § 3; 1961 c 257 § 3.]

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

47.56.720 Puget Island–Westport ferry—Payments for operation and maintenance to Wahkiakum county—Toll free operation and provision of rest room facilities, when. (1) The legislature finds that the ferry operated by Wahkiakum county between Puget Island and Westport on the Columbia river provides service which is primarily local in nature with secondary benefits to the state highway system in providing a bypass for state route 4 and providing the only crossing of the Columbia river between the Astoria–Megler bridge and the Longview bridge.

(2) The Washington state highway commission is hereby authorized to enter into a continuing agreement with Wahkiakum county pursuant to which the state highway commission shall pay to Wahkiakum county from moneys appropriated for such purpose the sum of one thousand dollars per month to be used in the operation and maintenance of the Puget Island ferry, commencing July 1, 1971.

Subject to the provisions of subsection (4) of this section, the Washington state highway commission is authorized to include in the continuing agreement a provision to reimburse Wahkiakum county for sixty percent of the deficit incurred during each previous fiscal year in the operation and maintenance of the ferry, commencing with the fiscal year ending June 30, 1972. The state's sixty percent share of the annual operating and maintenance deficit shall include the one thousand dollars per month authorized in this subsection.

(3) The annual deficit, if any, incurred in the operation and maintenance of the ferry shall be determined by Wahkiakum county subject to the approval of the Washington state highway commission. If sixty percent of the deficit for the preceding fiscal year exceeds the total amount paid to the county for that year, the additional amount shall be paid to the county by the Washington state highway commission upon the receipt of a properly executed voucher: *Provided*, That the total of all payments to the county in any biennium shall not exceed the amount appropriated for that biennium.

(4) Whenever, subsequent to June 9, 1977, state route 4 between Cathlamet and Longview is closed to traffic pursuant to chapter 47.48 RCW due to actual or potential slide conditions and there is no suitable, reasonably short alternate state route provided, Wahkiakum county is authorized to operate the Puget Island ferry on a toll free basis during the entire period of such closure. The state's share of the ferry operations and maintenance deficit during such period shall be one hundred percent.

(5) Whenever state route 4 between Cathlamet and Longview is closed to traffic, as mentioned in subsection (4) hereof, the state of Washington shall provide temporary rest room facilities at the Washington ferry landing terminal. [1977 c 11 § 1; 1973 2nd ex.s. c 26 § 1; 1971 ex.s. c 254 § 1.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "Washington state highway commission" means department of transportation; see RCW 47.04.015.

Effective date—1973 2nd ex.s. c 26: "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 October 1, 1973." [1973 2nd ex.s. c 26 § 3.]

47.56.725 Ferry systems operated by Pierce, Skagit, and Whatcom counties—Deficit reimbursements. (1) The Washington state highway commission is hereby authorized to enter into a continuing agreement with Pierce, Skagit, and Whatcom counties pursuant to which the state highway commission shall, from time to time, direct the distribution to each of the counties the amounts authorized in subsection (2) of this section in accordance with RCW 46.68.100 as now or hereafter amended.

(2) The Washington state highway commission is authorized to include in each such continuing agreement a provision for the distribution to each such county funds to reimburse the county for fifty percent of the deficit incurred during each previous fiscal year in the operation and maintenance of the ferry system owned and operated by such county, commencing with the fiscal year ending June 30, 1976: *Provided*, That the total amount to be reimbursed to Pierce, Skagit, and Whatcom counties collectively shall not exceed five hundred thousand dollars in any biennium: *Provided further*, That each county agreement shall contain a requirement that the county shall maintain tolls on its ferries at levels sufficient to produce aggregate annual revenues at least equal to the annual revenue of the county's ferry system in calendar year 1975.

(3) The annual fiscal year deficit, if any, shall be determined by Pierce, Skagit, and Whatcom counties subject to review and approval of the Washington state highway commission. The annual fiscal year deficit is defined as the total of operations and maintenance expenditures less the sum of ferry toll revenues and that portion of fuel tax revenue distributions which are attributable to the county ferry as determined by the Washington state highway commission. Distribution of the amounts authorized by subsection (2) of this section by the state treasurer shall be directed by the Washington state highway commission upon the receipt

of properly executed vouchers from each county. [1977 c 51 § 2; 1975-'76 2nd ex.s. c 57 § 2; 1975 1st ex.s. c 21 § 1.]

Reviser's note: Powers, duties, and functions of highway commission transferred to department of transportation; see RCW 47.01.031. Term "Washington state highway commission" means department of transportation; see RCW 47.04.015.

Severability—1977 c 51: See note following RCW 46.68.100.

Chapter 47.60

PUGET SOUND FERRY AND TOLL BRIDGE SYSTEM

Sections

47.60.310	State ferries—Local expressions—Local advisory committees.
47.60.505	Puget Sound capital construction account—Created—Use.
47.60.510	and 47.60.520 Repealed.
47.60.560	General obligation bonds—Ferries—Authorized—Purposes—High speed passenger only vessels—Issuance, sale, and retirement.
47.60.570	Disposition of proceeds from sale of bonds.
47.60.580	Bonds—Terms—Principal and interest payable from proceeds of state excise taxes on motor vehicle and special fuels.
47.60.590	Repayment of bonds—Fund sources.
47.60.600	Bonds—Powers and duties of state finance committee.
47.60.610	Excess repayment funds—Disposition.
47.60.620	Reimbursements and transfers of funds.
47.60.630	Bonds legal investment for public funds.
47.60.640	Bonds—Equal charge against revenues from motor vehicle and special fuel excise taxes.
47.60.650	Ferry construction contract negotiations—Notice, contents, procedure—Request for proposal, contents—Submission and evaluation of proposals.
47.60.660	Ferry construction contract negotiations—Prequalification of firms desiring to contract.
47.60.670	Ferry construction contract negotiations—Preference for Washington firm.

47.60.310 State ferries—Local expressions—Local advisory committees. The authority is further directed to conduct such review by soliciting and obtaining expressions from local community groups in order to be properly informed as to problems being experienced within the area served by the Washington state ferries. In order that local representation may be established, the authority shall give prior notice of the review to the board of county commissioners of each county wherein a terminal of the Washington state ferries is located and the board of county commissioners of any other county adjacent to Puget Sound or the Strait of Juan de Fuca which by resolution has notified the authority of its intent to participate in the reviews. Each such board of county commissioners is hereby directed to appoint a committee to consist of no more than five members to serve as an advisory committee to the authority or its designated representative in such review. The committees to be appointed by the boards of county commissioners shall serve without fee or compensation. It is not the intent of RCW 47.60.290 through 47.60.320 that any powers or duties now prescribed and delegated to the authority shall be assumed by any other board or committee. [1977 c 29 § 1; 1961 c 13 § 47.60.310. Prior: 1959 c 199 § 3.]

Reviser's note: Powers, duties, and functions of toll bridge authority transferred to department of transportation; see RCW 47.01.031. Term "authority" when referring to toll bridge authority means department of transportation; see RCW 47.04.015.

47.60.505 Puget Sound capital construction account—Created—Use. There is hereby created in the motor vehicle fund the Puget Sound capital construction account. All moneys hereafter deposited in said account shall be used by the Washington toll bridge authority for:

(1) Reimbursing the motor vehicle fund for all transfers therefrom made in accordance with RCW 47.60.620; and

(2) Improving the Washington state ferry system including, but not limited to, vessel acquisition, vessel construction, major and minor vessel improvements, and terminal construction and improvements, pursuant to proper appropriations: *Provided*, That any funds accruing to the Puget Sound capital construction account after June 30, 1979, which are not required to reimburse the motor vehicle fund pursuant to RCW 47.60.620 as such obligations come due nor are required for capital improvements of the Washington state ferries pursuant to appropriations therefor shall from time to time as shall be determined by the department of highways be transferred by the state treasurer to the Puget Sound ferry operations account in the motor vehicle fund. [1977 1st ex.s. c 360 § 10; 1970 ex.s. c 85 § 2.]

Reviser's note: Powers, duties, and functions of toll bridge authority and department of highways transferred to department of transportation; see RCW 47.01.031. Terms "Washington toll bridge authority" and "department of highways" mean department of transportation; see RCW 47.04.015.

Severability—1977 1st ex.s. c 360: See note following RCW 47.60.560.

47.60.510 and 47.60.520 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.60.560 General obligation bonds—Ferries—Authorized—Purposes—High speed passenger only vessels—Issuance, sale, and retirement. In order to provide funds necessary for vessel acquisition, vessel construction, major and minor vessel improvements, and terminal construction and improvements for the Washington state ferries, there shall be issued and sold upon the request of the Washington toll bridge authority general obligation bonds of the state of Washington in the sum of one hundred thirty-five million dollars or such amount thereof as may be required (together with other funds available therefor). In the event the state of Washington is able to obtain matching funds from the urban mass transportation administration or other federal government agencies for the acquisition of four high speed passenger only vessels capable of operating as an integral part of the Washington state ferries on Puget Sound and the Straits of Juan de Fuca, a sufficient amount of the proceeds of said bonds authorized herein shall be utilized to pay the state's share of the acquisition cost of such high speed passenger only vessels. The high speed passenger only vessels shall be of existing

design currently manufactured in the United States, shall have a normal cruising speed in excess of forty knots, and shall have a passenger capacity of two hundred fifty to three hundred fifty passengers. Upon request being made by the Washington toll bridge authority, the state finance committee shall supervise and provide for the issuance, sale, and retirement of said bonds in accordance with the provisions of chapter 39.42 RCW. Such bonds may be sold from time to time in such amounts as may be necessary for the orderly progress in constructing the ferries. [1977 1st ex.s. c 360 § 1.]

Reviser's note: Powers, duties, and functions of toll bridge authority transferred to department of transportation; see RCW 47.01.031. Term "Washington toll bridge authority" means department of transportation; see RCW 47.04.015.

Severability—1977 1st ex.s. c 360: "If any provision of this 1977 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." [1977 1st ex.s. c 360 § 13.] This applies to the enactment of RCW 47.60.560 through 47.60.640 and to the amendment of RCW 47.60.505.

47.60.570 Disposition of proceeds from sale of bonds. The proceeds from the sale of the bonds shall be deposited in the Puget Sound capital construction account of the motor vehicle fund and such proceeds shall be available only for the purposes enumerated in RCW 47.60.560, for the payment of bond anticipation notes, if any, and for the payment of the expense incurred in the drafting, printing, issuance, and sale of such bonds. [1977 1st ex.s. c 360 § 2.]

Severability—1977 1st ex.s. c 360: See note following RCW 47.60.560.

47.60.580 Bonds—Terms—Principal and interest payable from proceeds of state excise taxes on motor vehicle and special fuels. Bonds issued under the provisions of RCW 47.60.560 shall distinctly state that they are a general obligation 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 47.60.560 through 47.60.640 from the proceeds of the state excise taxes on motor vehicle and special fuels imposed by chapters 82.36, 82.37, and 82.38 RCW. Proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW 47.60.560 through 47.60.640 and the legislature hereby agrees to continue to impose the same excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the provisions of RCW 47.60.560 through 47.60.640. [1977 1st ex.s. c 360 § 3.]

Severability—1977 1st ex.s. c 360: See note following RCW 47.60.560.

47.60.590 Repayment of bonds—Fund sources. Any funds required to repay the bonds authorized by RCW 47.60.560 or the interest thereon when due shall

be taken from that portion of the motor vehicle fund which results from the imposition of excise taxes on motor vehicle and special fuels and which is distributed to the state for expenditure pursuant to RCW 46.68.130 and shall never constitute a charge against any allocations of such funds to counties, cities, and towns unless and until the amount of the motor vehicle fund arising from the excise taxes on motor vehicle and special fuels and available for state highway purposes proves insufficient to meet the requirements for bond retirement or interest on any such bonds. [1977 1st ex.s. c 360 § 4.]

Severability—1977 1st ex.s. c 360: See notes following RCW 47.60.560.

47.60.600 Bonds—Powers and duties of state finance committee. At least one year prior to the date any interest is due and payable on such bonds or before the maturity date of such bonds, the state finance committee shall estimate, subject to the provisions of RCW 47.60.590, the percentage of the receipts in money of the motor vehicle fund resulting from collection of excise taxes on motor vehicle and special fuels, for each month of the year which shall be required to meet interest or bond payments when due and shall notify the treasurer of such estimated requirement. The state treasurer shall thereafter from time to time each month as such funds are paid into the motor vehicle fund, transfer such percentage of the monthly receipts from excise taxes on motor vehicle and special fuels of the motor vehicle fund to the ferry bond retirement fund hereby created in the state treasury, which funds shall be available solely for payment of the principal of and interest on the bonds when due. If in any month it shall appear that the estimated percentage of moneys so made is insufficient to meet the requirements for payment of the principal thereof or interest thereon, the treasurer shall notify the state finance committee forthwith and such committee shall adjust its estimates so that all requirements for the interest on and principal of all bonds issued shall be fully met at all times. [1977 1st ex.s. c 360 § 5.]

Severability—1977 1st ex.s. c 360: See notes following RCW 47.60.560.

47.60.610 Excess repayment funds—Disposition. Whenever the percentage of the motor vehicle fund arising from excise taxes on motor vehicle and special fuels payable into the bond retirement fund shall prove more than is required for the payment of interest on bonds when due, or current retirement of bonds, any excess may, in the discretion of the state finance committee and with the concurrence of the Washington toll bridge authority, be available for the prior redemption of any bonds or remain available in the fund to reduce requirements upon the fuel excise tax portion of the motor vehicle fund at the next interest or bond payment period. [1977 1st ex.s. c 360 § 6.]

Reviser's note: Powers, duties, and functions of toll bridge authority transferred to department of transportation; see RCW 47.01.031. Term "Washington toll bridge authority" means department of transportation; see RCW 47.04.015.

Severability—1977 1st ex.s. c 360: See notes following RCW 47.60.560.

47.60.620 Reimbursements and transfers of funds. Whenever, pursuant to RCW 47.60.600, the state treasurer shall transfer funds from the motor vehicle fund to the ferry bond retirement fund, the state treasurer shall at the same time reimburse the motor vehicle fund in an identical amount from the Puget Sound capital construction account. After each transfer by the treasurer of funds from the motor vehicle fund to the bond retirement fund, the obligation to reimburse the motor vehicle fund as required herein shall constitute a first and prior charge against the funds within and accruing to the Puget Sound capital construction account, including the proceeds of the additional two-tenths of one percent excise tax imposed by RCW 82.44.020, as amended by chapter 332, Laws of 1977 1st ex. sess. All funds reimbursed to the motor vehicle fund as provided herein shall be distributed to the state for expenditure pursuant to RCW 46.68.130. [1977 1st ex.s. c 360 § 7.]

Severability—1977 1st ex.s. c 360: See notes following RCW 47.60.560.

47.60.630 Bonds legal investment for public funds. The bonds authorized in RCW 47.60.560 through 47.60.640 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1977 1st ex.s. c 360 § 8.]

Severability—1977 1st ex.s. c 360: See notes following RCW 47.60.560.

47.60.640 Bonds—Equal charge against revenues from motor vehicle and special fuel excise taxes. Bonds issued under authority of RCW 47.60.560 through 47.60.640 and any subsequent general obligation bonds of the state of Washington which may be authorized and which pledge motor vehicle and special fuel excise taxes for the payment of principal and interest thereon shall be an equal charge against the revenues from such motor vehicle and special fuel excise taxes. [1977 1st ex.s. c 360 § 9.]

Severability—1977 1st ex.s. c 360: See notes following RCW 47.60.560.

47.60.650 Ferry construction contract negotiations—Notice, contents, procedure—Request for proposal, contents—Submission and evaluation of proposals. (1) The Washington state toll bridge authority shall, no later than January 1, 1980, negotiate a contract with any shipbuilding firm, which has prequalified under RCW 47.60.660, for the construction of one or more ferry vessels for the Washington state ferries. Whenever the toll bridge authority begins such negotiations, it shall proceed in the manner provided by this section.

(2) Whenever the Washington state toll bridge authority decides to procure one or more ferry vessels for the Washington state ferries by negotiated contract pursuant to this section, it shall determine the number of vessels to be constructed, the money available for these purposes, any performance criteria or requirements which the boat, as constructed, must meet, and any other information or requirements related to the procurement which the toll bridge authority deems pertinent.

(3) Whenever the toll bridge authority decides to negotiate a contract for the design and/or construction of one or more ferry vessels, it shall publish a notice of its intent to negotiate such a contract once a week for at least two consecutive weeks in one trade paper and one other paper, both of general circulation in the state. In addition, the authority shall mail said notice to any firm known to the authority which has expressed an interest in constructing ferries for the Washington state ferry system within the previous ten years. The notice shall contain, but not be limited to, the following information:

(a) The number of ferry vessels to be built, their vehicular and passenger capacity, and the proposed delivery date for each vessel;

(b) A short summary of the requirements for prequalification contained in RCW 47.60.660, including a statement explaining that prequalification is a prerequisite to consideration by the toll bridge authority of any ferry vessel proposal;

(c) An address and telephone number which may be used to obtain the application forms for prequalification and the request for proposal.

(4) The authority shall send to any firm which shall request it a request for proposal outlining the design and construction requirements for the ferry vessels. The request for proposal shall include, but not be limited to, the following information:

(a) Solicitation of a proposal which provides complete design specifications and details sufficient for the construction of ferry vessels which meet or exceed performance criteria specified by the authority;

(b) The number of vessels to be contracted for;

(c) The proposed delivery date for each vessel, the port on Puget Sound where delivery will be taken, and the location where acceptance trials will be held;

(d) The maximum funds which can be expended for procurement and an explanation that no proposal will be considered which quotes a price greater than that amount;

(e) The amount of the contractor's bond;

(f) A copy of any contract plans and specifications for ferry vessels possessed by the department of highways which the authority determines might be useful to firms in preparing proposals;

(g) The date by which proposals for ferry vessel design and construction must be received by the authority in order to be considered;

(h) A requirement that all designs submitted shall conform to the American bureau of shipping and the United States coast guard standards for the design of passenger vessels;

(i) A statement that any proposal submitted shall constitute an offer and shall remain open until ninety days after the deadline for submitting proposals, unless the firm submitting it shall withdraw it by formal written notice received by the toll bridge authority prior to the authority's selection of the firm submitting the most advantageous proposal, together with an explanation of the requirement that all proposals submitted be accompanied by a deposit in the amount of five percent of the proposed cost; and

(j) A copy of chapter 47.60 RCW.

(5) The authority shall evaluate all timely proposals received from prequalified firms for compliance with the requirements specified in the request for proposal, and, in addition, shall estimate the operation and maintenance costs of each firm's vessel design by applying appropriate criteria developed by the authority for this purpose.

(6) Upon concluding its evaluation, the toll bridge authority shall:

(a) Select the firm presenting the proposal most advantageous to the state, taking into consideration the requirements stated in the request for proposal and the in-state preference provided in RCW 47.60.670, and rank the remaining firms in order of preference, judging them by the same standards; or

(b) Reject all proposals as not in compliance with the requirements contained in the request for proposals.

The authority shall immediately notify those firms, which were not selected as the firm presenting the most advantageous proposal, of the authority's decision. The authority's decision shall be conclusive unless appeal therefrom shall be taken by an aggrieved firm to the superior court of Thurston county within five days after receiving notice of the authority's final decision. The appeal shall be heard summarily within ten days after the same is taken and on five days notice thereof to the toll bridge authority. The court shall hear any such appeal on the administrative record which was before the authority. The court may affirm the decision of the authority or it may reverse the decision if it determines the action of the authority is arbitrary or capricious.

(7) Upon selecting that firm which has presented the most advantageous proposal and ranking the remaining firms in order of preference, the authority shall:

(a) Negotiate a contract with the firm presenting the most advantageous proposal; or

(b) In the event that a final agreement cannot be negotiated with the firm presenting the most advantageous proposal which is satisfactory to the authority, the authority may then negotiate with the firm ranked next highest in order of preference. Should it be necessary, the authority may repeat this procedure and negotiate with each firm in order of rank until the list of firms has been exhausted.

(8) In negotiating such a contract for the design and/or construction of ferry vessels, the authority may, subject to the provisions of RCW 39.25.020, authorize the use of foreign made materials and components in the construction of ferries in order to minimize costs.

(9) Proposals submitted by firms pursuant to this section shall constitute an offer and shall remain open for ninety days. When submitted, each proposal shall be accompanied by a deposit in cash, certificated check, cashier's check, or surety bond in the amount equal to five percent of the amount of the proposed contract price and no proposal shall be considered unless the deposit is enclosed therewith. If the authority awards a contract to a firm pursuant to the procedure set forth in this section and the firm fails to enter into the contract and furnish a satisfactory bond as required by RCW 39.08.090 within twenty days, exclusive of the day of the award,

his deposit shall be forfeited to the state and be deposited by the state treasurer to the credit of the Puget Sound capital construction account. Upon the execution of a ferry construction contract all proposal deposits shall be returned.

(10) The authority may delegate any of the powers or duties conferred upon it by this section to the department of highways, and the department shall assume or perform those powers or duties. [1977 1st ex.s. c 166 § 1.]

Reviser's note: Powers, duties, and functions of toll bridge authority and highway department transferred to department of transportation; see RCW 47.01.031. Terms "Washington state toll bridge authority" and "department of highways" mean department of transportation; see RCW 47.04.015.

Severability—1977 1st ex.s. c 166: "If any provision of this 1977 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 the other persons or circumstances is not affected." [1977 1st ex.s. c 166 § 9.] This applies to the enactment of RCW 39.08.090, 47.60.650, 47.60.660, and 47.60.670 and the amendment of RCW 39.08.030, 60.28.010, 82.08.030, and 82.12.030.

47.60.660 Ferry construction contract negotiations—Prequalification of firms desiring to contract. The Washington state toll bridge authority shall require any firm desiring to contract for the construction of one or more ferry vessels for the Washington state ferries to prequalify for such work in the manner prescribed herein. The authority shall supply to such person, firm, or corporation a standard form of questionnaire and financial statement applicable to shipbuilders, including a complete statement of the financial ability and experience of such firm in shipbuilding. Such questionnaire shall be sworn to before a notary public. The authority shall certify as prequalified for the construction of ferry vessels only those firms which have all of the following requirements:

(1) Adequate financial resources or the ability to secure such resources;

(2) The necessary experience, organization, and technical qualifications to construct ferry vessels;

(3) The ability to comply with the required performance schedule taking into consideration all of the firm's existing business commitments;

(4) A satisfactory record of performance, integrity, judgment, and skills; and

(5) Be otherwise qualified and eligible to construct ferry vessels under applicable laws and regulations.

A refusal by the authority to certify a firm as prequalified to construct ferry vessels for the Washington state ferries shall be conclusive unless appeal therefrom to the superior court of Thurston county be taken within five days after receiving notice thereof, which appeal shall be heard summarily within ten days after the appeal is taken and on five days' notice thereof to the authority. The court shall hear any such appeal on the administrative record which was before the authority. The court may affirm the decision of the authority or it may reverse the decision if it determines the action of the authority is arbitrary or capricious. A firm may reapply for certification after one year has elapsed from the date certification was denied.

Neither the Washington state toll bridge authority nor the department of highways shall accept any bid, or consider any proposal for a negotiated ferry vessel construction contract, from a firm which has not prequalified pursuant to this section.

The Washington state toll bridge authority may delegate to the department of highways any of the powers or duties conferred upon the authority by this section, and the department shall assume or perform those powers or duties. [1977 1st ex.s. c 166 § 2.]

Reviser's note: Powers, duties, and functions of toll bridge authority and highway department transferred to department of transportation; see RCW 47.01.031. Terms "Washington toll bridge authority" and "department of highways" mean department of transportation; see RCW 47.04.015.

Severability—1977 1st ex.s. c 166: See note following RCW 47.60.650.

47.60.670 Ferry construction contract negotiations—Preference for Washington firm. Whenever the Washington state toll bridge authority or department of highways shall award any ferry vessel construction contract, the authority or department shall enter into negotiations with or award the contract to the shipbuilding firm located within the state of Washington which has submitted the most advantageous proposal as determined by the authority pursuant to RCW 47.60.650 or has submitted the lowest responsible bid, providing such bid or proposed price does not exceed by more than six percent the lowest price proposal for a negotiated contract or the lowest comparable bid of any shipbuilding firm located outside the state of Washington. [1977 1st ex.s. c 166 § 8.]

Reviser's note: Powers, duties, and functions of toll bridge authority and highway department transferred to department of transportation; see RCW 47.01.031. Terms "Washington state toll bridge authority" and "department of highways" mean department of transportation; see RCW 47.04.015.

Severability—1977 1st ex.s. c 166: See note following RCW 47.60.650.

Chapter 47.68
AERONAUTICS

(Formerly: Chapter 14.04 RCW, aeronautics commission)

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47.68.010 Statement of policy. It is hereby declared that the purpose of this chapter is to further the public interest and aeronautical progress by providing for the protection and promotion of safety in aeronautics; by cooperating in effecting uniformity of the laws and regulations relating to the development and regulation of aeronautics in the several states consistent with federal aeronautics laws and regulations; by granting to a state agency such powers and imposing upon it such duties that the state may properly perform its functions relative to aeronautics and effectively exercise its jurisdiction over persons and property within such jurisdiction, assist in the development of a state-wide system of airports, cooperate with and assist the municipalities of this state and others engaged in aeronautics, and encourage and develop aeronautics; by establishing only such regulations as are essential in order that persons engaged in aeronautics of every character may so engage with the least possible restriction, consistent with the safety and the rights of others; and by providing for cooperation with the federal authorities in the development of a national system of civil aviation and for coordination of the aeronautical activities of those authorities and the authorities of this state. [1947 c 165 § 2; Rem. Supp. 1947 § 10964–82. Formerly RCW 14.04.010.]

47.68.015 Change of meaning, certain terms. Unless the language specifically indicates otherwise, or unless the context plainly requires a different interpretation:

Wherever in any provision in the Revised Code of Washington the term "Washington state aeronautics commission", "the state aeronautics commission", "the aeronautics commission of the state", "the aeronautics commission", or "the commission" (when referring to the Washington state aeronautics commission) is used, it

shall mean the department of transportation created in RCW 47.01.031.

Wherever in any provision in the Revised Code of Washington the term "state director of aeronautics", "director of aeronautics", or "director" (when referring to the state director of aeronautics) is used, it shall mean the secretary of transportation whose office is created in RCW 47.01.041. [1977 1st ex.s. c 151 § 22.]

47.68.020 Definitions. As used in this chapter, unless the context clearly indicates otherwise:

(1) "Aeronautics" means the science and art of flight and including but not limited to transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or air navigation facilities; and instruction in flying or ground subjects pertaining thereto.

(2) "Aircraft" means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

(3) "Airport" means any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or right-of-way, together with all airport buildings and facilities located thereon.

(4) "Commission" means the *state aeronautics commission.

(5) "Director" means the **director of aeronautics of this state.

(6) "State" or "this state" means the state of Washington.

(7) "Air navigation facility" means any facility, other than one owned or operated by the United States, used in, available for use in, or designed for use in aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(8) "Operation of aircraft" or "operate aircraft" means the use, navigation or piloting of aircraft in the airspace over this state or upon any airport within this state.

(9) "Airman" means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew in the navigation of aircraft while under way, and any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft engines, propellers, or appliances, and any individual who serves in the capacity of aircraft dispatcher or air-traffic control tower operator; but does not include any individual employed outside the United States, or any individual employed by a manufacturer of aircraft, aircraft engines, propellers, or appliances to perform duties as inspector or mechanic in connection therewith, or any individual performing inspection or mechanical

duties in connection with aircraft owned or operated by him.

(10) "Aeronautics instructor" means any individual who for hire or reward engages in giving instruction or offering to give instruction in flying or ground subjects pertaining to aeronautics, but excludes any instructor in a public school, university or institution of higher learning duly accredited and approved for carrying on collegiate work, who instructs in flying or ground subjects pertaining to aeronautics, while in the performance of his duties at such school, university or institution.

(11) "Air school" means any person who advertises, represents or holds out as giving or offering to give instruction in flying or ground subjects pertaining to aeronautics whether for or without hire or reward; but excludes any public school, university or institution of higher learning duly accredited and approved for carrying on collegiate work.

(12) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

(13) "Municipal" means pertaining to a municipality, and "municipality" shall mean any county, city, town, authority, district or other political subdivision or public corporation of this state.

(14) "Airport hazard" means any structure, object of natural growth, or use of land, which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off.

(15) "State airway" means a route in the navigable airspace over and above the lands or waters of this state, designated by the commission as a route suitable for air navigation. [1947 c 165 § 1; Rem. Supp. 1947 § 10964-81. Formerly RCW 14.04.020.]

Reviser's notes: *(1) Powers, duties, and functions of aeronautics commission transferred to department of transportation; see RCW 47.01.031. Term "aeronautics commission" means department of transportation; see RCW 47.68.015.

***(2) Term "director of aeronautics" means secretary of transportation; see RCW 47.68.015.

47.68.060 Offices. Suitable offices and office equipment shall be provided by the state for the commission in a city in the state that it may designate and the commission may incur the necessary expense for office furniture, stationery, printing, incidental expenses, and other expenses necessary for the administration of this chapter. [1947 c 165 § 6; Rem. Supp. 1947 § 10964-86. Formerly RCW 14.04.060.]

47.68.070 General powers. The commission shall have general supervision over aeronautics within this state. It is empowered and directed to encourage, foster, and assist in the development of aeronautics in this state and to encourage the establishment of airports and air navigation facilities. It shall cooperate with and assist the federal government, the municipalities of this state, and other persons in the development of aeronautics, and shall seek to coordinate the aeronautical activities of these bodies and persons. Municipalities are authorized

to cooperate with the commission in the development of aeronautics and aeronautical facilities in this state. [1947 c 165 § 7; Rem. Supp. 1947 § 10964–87. Formerly RCW 14.04.070.]

47.68.080 Drafts of legislation, other duties. The commission may draft and recommend necessary legislation to advance the interests of the state in aeronautics, represent the state in aeronautical matters before federal agencies and other state agencies, and participate as party plaintiff or defendant or as intervener on behalf of the state or any municipality or citizen thereof in any controversy which involves the interest of the state in aeronautics. [1947 c 165 § 8; 1945 c 252 § 5; Rem. Supp. 1947 § 10964–88. Formerly RCW 14.04.080.]

47.68.090 Aid to municipalities, Indian tribes—
Federal aid. The commission may make available its engineering and other technical services, with or without charge, to any municipality or person desiring them in connection with the planning, acquisition, construction, improvement, maintenance or operation of airports or air navigation facilities.

The commission may render financial assistance by grant or loan or both to any municipality or municipalities acting jointly in the planning, acquisition, construction, improvement, maintenance, or operation of an airport owned or controlled, or to be owned or controlled by such municipality or municipalities, or to any Indian tribe recognized as such by the federal government or such tribes acting jointly in the planning, acquisition, construction, improvement, maintenance or operation of an airport, owned or controlled, or to be owned or controlled by such tribe or tribes and to be held available for the general use of the public, out of appropriations made by the legislature for such purposes. Such financial assistance may be furnished in connection with federal or other financial aid for the same purposes: *Provided*, That no grant or loan or both shall be in excess of one hundred thousand dollars for any one project: *Provided further*, That no grant or loan or both shall be granted unless the municipality or municipalities acting jointly, or the tribe or tribes acting jointly shall from their own funds match any funds made available by the commission upon such ratio as the commission may prescribe.

The commission is authorized to act as agent of any municipality or municipalities acting jointly or any tribe or tribes acting jointly, upon the request of such municipality or municipalities, or such tribe or tribes in accepting, receiving, receipting for and disbursing federal moneys, and other moneys public or private, made available to finance, in whole or in part, the planning, acquisition, construction, improvement, maintenance or operation of an airport or air navigation facility; and if requested by such municipality or municipalities, or tribe or tribes, may act as its or their agent in contracting for and supervising such planning, acquisition, construction, improvement, maintenance, or operation; and all municipalities and tribes are authorized to designate the commission as their agent for the foregoing purposes. The commission, as principal on behalf of the

state, and any municipality on its own behalf, may enter into any contracts, with each other or with the United States or with any person, which may be required in connection with a grant or loan of federal moneys for airport or air navigation facility purposes. All federal moneys accepted under this section shall be accepted and transferred or expended by the commission upon such terms and conditions as are prescribed by the United States. All moneys received by the commission pursuant to this section shall be deposited in the state treasury, and, unless otherwise prescribed by the authority from which such moneys were received, shall be kept in separate funds designated according to the purposes for which the moneys were made available, and held by the state in trust for such purposes. All such moneys are hereby appropriated for the purposes for which the same were made available, to be disbursed or expended in accordance with the terms and conditions upon which they were made available: *Provided*, That any landing fee or charge imposed by any Indian tribe or tribes for the privilege of use of an airport facility planned, acquired, constructed, improved, maintained, or operated with financial assistance from the commission pursuant to this section must apply equally to tribal and nontribal members: *Provided further*, That in the event any municipality or municipalities or Indian tribe or tribes, or any distributor of aircraft fuel as defined by RCW 82.42.020 which operates in any airport facility which has received financial assistance pursuant to this section, fails to collect the aircraft fuel excise tax as specified in chapter 82.42 RCW, all funds or value of technical assistance given or paid to such municipality or municipalities or Indian tribe or tribes under the provisions of this section shall revert to the commission, and shall be due and payable to the commission immediately. [1975 1st ex.s. c 161 § 1; 1947 c 165 § 9; Rem. Supp. 1947 § 10964–89. Formerly RCW 14.04.090.]

Distributor of aircraft fuel defined: RCW 82.42.010(7).

47.68.100 Acquisition and disposal of airports, facilities, etc. The commission is authorized on behalf of and in the name of the state, out of appropriations and other moneys made available for such purposes, to plan, establish, construct, enlarge, improve, maintain, equip, operate, regulate, protect and police airports, air navigation facilities, and air markers and/or air marking systems, either within or without the state, including the construction, installation, equipment, maintenance and operation at such airports of buildings and other facilities for the servicing of aircraft or for the comfort and accommodation of air travelers. For such purposes the commission may by purchase, gift, devise, lease, condemnation or otherwise, acquire property, real or personal, or any interest therein, including easements or land outside the boundaries of an airport or airport site, as are necessary to permit safe and efficient operation of the airports or to permit the removal, elimination, marking or lighting of obstructions or airport hazards, or to prevent the establishment of airport hazards. In like manner the commission may acquire existing airports and air navigation facilities: *Provided*, That it shall not acquire or take over any airport or air navigation facility

owned or controlled by a municipality of this or any other state without the consent of such municipality. The commission may by sale, lease, or otherwise, dispose of any such property, airport, air navigation facility, or portion thereof or interest therein. Such disposal by sale, lease, or otherwise, shall be in accordance with the laws of this state governing the disposition of other property of the state, except that in the case of disposals to any municipality or state government or the United States for aeronautical purposes incident thereto, the sale, lease, or other disposal may be effected in such manner and upon such terms as the commission may deem in the best interest of the state. The commission may exercise any powers granted by this section jointly with any municipalities, agencies or departments of the state government, with other states or their municipalities, or with the United States. [1947 c 165 § 10; Rem. Supp. 1947 § 10964–90. Formerly RCW 14.04.100.]

47.68.110 Zoning powers not interfered with. Nothing contained in this chapter shall be construed to limit any right, power or authority of the state or a municipality to regulate airport hazards by zoning. [1947 c 165 § 11; Rem. Supp. 1947 § 10964–91. Formerly RCW 14.04.110.]

Planning commissions: Chapter 35.63 RCW.

47.68.120 Condemnation, how exercised. In the condemnation of property authorized by this section [chapter], the commission shall proceed in the name of the state in the manner that property is acquired by the state highway department for public uses. [1947 c 165 § 12; Rem. Supp. 1947 § 10964–92. Formerly RCW 14.04.120.]

Reviser's note: Powers, duties, and functions of state highway department transferred to department of transportation; see RCW 47.01.031. Term "highway department" means department of transportation; see RCW 47.04.015.

Acquisition of highway property: Chapter 47.12 RCW.

Eminent domain by state: Chapter 8.04 RCW.

47.68.130 Contracts or leases of facilities in operating airports. In operating an airport or air navigation facility owned or controlled by the state, the commission may enter into contracts, leases and other arrangements for a term not exceeding twenty-five years with any persons granting the privilege of using or improving such airport or air navigation facility or any portion or facility thereof or space therein for commercial purposes, conferring the privilege of supplying goods, commodities, things, services or facilities at such airport or air navigation facility, or making available services to be furnished by the commission or its agents at such airport or air navigation facility. In each case the commission may establish the terms and conditions and fix the charges, rentals, or fees for the privileges or services, which shall be reasonable and uniform for the same class of privilege or service and shall be established with due regard to the property and improvements used and the cost of operation to the state: *Provided*, That in no case shall the public be deprived of its rightful, equal and uniform use

of the airport, air navigation facility, or portion or facility thereof. [1947 c 165 § 13; Rem. Supp. 1947 § 10964–93. Formerly RCW 14.04.130.]

47.68.140 Lease of airports. The commission may by contract, lease or other arrangement, upon a consideration fixed by it, grant to any qualified person for a term not to exceed twenty-five years the privilege of operating, as agent of the state or otherwise, any airport owned or controlled by the state: *Provided*, That no such person shall be granted any authority to operate the airport other than as a public airport or to enter into any contracts, leases, or other arrangements in connection with the operation of the airport which the commission might not have undertaken under *RCW 14.04.130. [1947 c 165 § 14; Rem. Supp. 1947 § 10964–94. Formerly RCW 14.04.140.]

***Reviser's note:** RCW 14.04.130 recodified as RCW 47.68.130 pursuant to 1977 1st ex.s. c 151 § 79.

47.68.150 Lien for state's charges. To enforce the payment of any charges for repairs to, improvements, storage or care of any personal property made or furnished by the commission or its agents in connection with the operation of an airport or air navigation facility owned or operated by the state, the state shall have liens on such property, which shall be enforceable by the commission as provided by law. [1947 c 165 § 15; Rem. Supp. 1947 § 10964–95. Formerly RCW 14.04.150.]

47.68.160 Acceptance of federal moneys. The commission is authorized to accept, receive, receipt for, disburse and expend federal moneys, and other moneys public or private, made available to accomplish, in whole or in part, any of the purposes of this section. All federal moneys accepted under this section shall be accepted and expended by the commission upon such terms and conditions as are prescribed by the United States. In accepting federal moneys under this section, the commission shall have the same authority to enter into contracts on behalf of the state as is granted to the commission under *RCW 14.04.090 with respect to federal moneys accepted on behalf of municipalities. All moneys received by the commission pursuant to this section shall be deposited in the state treasury, and, unless otherwise prescribed by the authority from which such moneys were received, shall be kept in separate funds designated according to the purposes for which the moneys were made available, and held by the state in trust for such purposes. All such moneys are hereby appropriated for the purpose of which the same were made available, to be disbursed or expended in accordance with the terms and conditions upon which they were made available. [1947 c 165 § 16; 1945 c 252 § 7; Rem. Supp. 1947 § 10964–96. Formerly RCW 14.04.160.]

***Reviser's note:** RCW 14.04.090 recodified as RCW 47.68.090 pursuant to 1977 1st ex.s. c 151 § 79.

47.68.170 State airways system. The commission may designate, design, and establish, expand, or modify a state airways system which will best serve the interest

of the state. It may chart such airways system and arrange for publication and distribution of such maps, charts, notices and bulletins relating to such airways as may be required in the public interest. The system shall be supplementary to and coordinated in design and operation with the federal airways system. It may include all types of air navigation facilities, whether publicly or privately owned: *Provided*, That such facilities conform to federal safety standards. [1947 c 165 § 17; Rem. Supp. 1947 § 10964-97. Formerly RCW 14.04.170.]

47.68.180 Execution of necessary contracts. The commission may enter into any contracts necessary to the execution of the powers granted it by this chapter. All contracts made by the commission, either as the agent of the state or as the agent of any municipality, shall be made pursuant to the laws of the state governing the making of like contracts: *Provided*, That where the planning, acquisition, construction, improvement, maintenance, or operation of any airport, or air navigation facility is financed wholly or partially with federal moneys, the commission as agent of the state or of any municipality, may let contracts in the manner prescribed by the federal authorities acting under the laws of the United States and any rules or regulations made thereunder. [1947 c 165 § 18; Rem. Supp. 1947 § 10964-98. Formerly RCW 14.04.180.]

47.68.185 Establishment of procedures required by conditions of federal transfers of facilities. The aeronautics commission is authorized to establish the necessary accounts or administrative procedures required by conditions attached to transfers of airport facilities from the federal government to the state of Washington. [1963 c 73 § 1. Formerly RCW 14.04.185.]

Reviser's note: Powers, duties, and functions of aeronautics commission transferred to department of transportation; see RCW 47.01.031. Term "aeronautics commission" means department of transportation; see RCW 47.68.015.

47.68.190 Exclusive grants prohibited. The commission shall grant no exclusive right for the use of any landing area or air navigation facility under its jurisdiction. This section shall not be construed to prevent the making of contracts, leases and other arrangements pursuant to this chapter. [1947 c 165 § 19; Rem. Supp. 1947 § 10964-99. Formerly RCW 14.04.190.]

47.68.200 Exercise of powers is public and governmental purpose. The acquisition of any lands or interest therein pursuant to this chapter, the planning, acquisition, establishment, construction, improvement, maintenance, equipment, and operation of airports and air navigation facilities, whether by the state separately or jointly with any municipality or municipalities, and the exercise of any other powers herein granted to the commission are hereby declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity. All lands and other property and privileges acquired and used by or on behalf of the state in the manner and for the purposes enumerated in this chapter shall and are hereby declared to be acquired

and used for public and governmental purposes and as a matter of public necessity. [1947 c 165 § 20; Rem. Supp. 1947 § 10964-100. Formerly RCW 14.04.200.]

47.68.210 Rules and regulations—Standards. The commission may perform such acts, issue and amend such orders, make, promulgate, and amend such reasonable general rules, regulations and procedures, and establish such minimum standards, consistent with the provisions of this chapter, as it shall deem necessary to perform its duties hereunder; all commensurate with and for the purpose of protecting and insuring the general public interest and safety, the safety of persons operating, using or traveling in aircraft or persons receiving instruction in flying or ground subjects pertaining to aeronautics, and the safety of persons and property on land or water, and developing and promoting aeronautics in this state. No rule or regulation of the commission shall apply to airports or air navigation facilities owned or operated by the United States.

The commission shall keep on file with the secretary of state, and at the principal office of the commission, a copy of all its rules and regulations for public inspection.

The commission shall provide for the publication and general distribution of all its orders, rules, regulations and procedures having general effect. [1947 c 165 § 21; Rem. Supp. 1947 § 10964-101. Formerly RCW 14.04.210.]

Notice of meetings: Chapter 42.30 RCW.

47.68.220 Operating aircraft recklessly or under influence of intoxicants or drugs. It shall be unlawful for any person to operate an aircraft in the air, or on the ground or water, while under the influence of intoxicating liquor, narcotics, or other habit-forming drug, or to operate an aircraft in the air or on the ground or water, in a careless manner so as to endanger the life or property of another. In any proceeding charging careless or reckless operation of aircraft in violation of this section, the court in determining whether the operation was careless or reckless may consider the standards for safe operation of aircraft prescribed by federal statutes or regulations governing aeronautics. [1947 c 165 § 22; Rem. Supp. 1947 § 10964-102. Formerly RCW 14.04.220.]

47.68.230 Aircraft and airman certificates required. It shall be unlawful for any person to operate or cause or authorize to be operated any civil aircraft within this state unless such aircraft has an appropriate effective certificate, permit or license issued by the United States, if such certificate, permit or license is required by the United States, and a current registration certificate issued by the director of the department of motor vehicles, if registration of the aircraft with the department of motor vehicles is required by this chapter. It shall be unlawful for any person to engage in aeronautics as an airman in the state unless he has an appropriate effective airman certificate, permit, rating or license issued by the United States authorizing him to engage in the particular class of aeronautics in which he is engaged, if such certificate, permit, rating or license is required by

the United States and a current airman's registration certificate issued by the commission as required by *RCW 14.04.233.

Where a certificate, permit, rating or license is required for an airman by the United States or by *RCW 14.04.233, it shall be kept in his personal possession when he is operating within the state. Where a certificate, permit or license is required by the United States or by this chapter for an aircraft, it shall be carried in the aircraft at all times while the aircraft is operating in the state and shall be conspicuously posted in the aircraft where it may be readily seen by passengers or inspectors. Such certificates shall be presented for inspection upon the demand of any peace officer, or any other officer of the state or of a municipality or member, official or employee of the aeronautics commission authorized pursuant to this chapter to enforce the aeronautics laws, or any official, manager or person in charge of any airport, or upon the reasonable request of any person. [1967 ex.s. c 68 § 2; 1967 ex.s. c 9 § 7; 1949 c 49 § 11; 1947 c 165 § 23; Rem. Supp. 1949 § 10964-103. Formerly RCW 14.04.230.]

Reviser's notes: (1) "department of motor vehicles" redesignated as "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

(2) Powers, duties, and functions of aeronautics commission transferred to department of transportation; see RCW 47.01.031. Term "aeronautics commission" means department of transportation; see RCW 47.68.015.

* (3) RCW 14.04.233 recodified as RCW 47.68.233 pursuant to 1977 1st ex.s. c 151 § 79.

Purpose—1967 ex.s. c 68: "The purpose of this act is to correct inconsistencies in amendment to section 23, chapter 165, Laws of 1947 and RCW 14.04.230, occasioned by two amendments to the same section by two different bills neither of which took cognizance of the other." [1967 ex.s. c 68 § 1.] This applies to RCW 47.68.230 (formerly RCW 14.04.230) and to 1967 ex.s. c 68 § 3 which repealed 1967 c 207 § 1 which also amended RCW 47.68.230 (formerly RCW 14.04.230).

Federal airmen certification: 52 U.S. Stat. at Large 1008, 49 U.S.C. 1952 ed. § 552.

Federal certification of aircraft: 52 U.S. Stat. at Large 1009, 49 U.S.C. 1952 ed. § 553.

Federal licensing of aircraft and airmen required: RCW 14.16.020, 14.16.030.

47.68.233 Registration of pilots—Certificates—Fees—Exemptions—Use of fees. The commission shall require that every pilot who is a resident of this state and every nonresident pilot who regularly operates any aircraft in this state shall be registered with the state aeronautics commission for each calendar year by January 31st thereof. The commission shall charge an annual fee not to exceed five dollars for each such registration. Registration under this section shall be required thirty days after June 8, 1967. All registration certificates issued pursuant to this section shall expire on December 31st of each year.

The registration fee imposed by this section shall be used by the commission for the purpose of (a) search and rescue of lost and downed aircraft and airmen under the direction and supervision of the director of aeronautics, and (b) safety and education.

Registration shall be effected by filing with the commission a certified written statement, containing the

information reasonably required by the commission. The commission shall issue certificates of registration and in connection therewith shall prescribe requirements for the possession and exhibition of such certificates.

The provisions of this section shall not apply to:

(1) The pilot who operates an aircraft exclusively in the service of any government or any political subdivision thereof, including the government of the United States, any state, territory or possession of the United States, or the District of Columbia;

(2) A pilot registered under the laws of a foreign country;

(3) A pilot engaged exclusively in commercial flying constituting an act of interstate or foreign commerce;

(4) Any person piloting an aircraft equipped with fully functioning dual controls when a licensed instructor is in full charge of one set of said controls and such flight is solely for instruction or for the demonstration of said aircraft to a bona fide prospective purchaser.

Failure to register as provided in this section shall be deemed to be a violation of *RCW 14.04.230 and shall subject the offender to the penalties incident thereto. [1967 c 207 § 2. Formerly RCW 14.04.233.]

Reviser's notes: (1) Powers, duties, and functions of aeronautics commission and director of aeronautics transferred to department of transportation; see RCW 47.01.031. Term "aeronautics commission" and "director of aeronautics" mean department and director of transportation; see RCW 47.68.015.

* (2) RCW 14.04.230 recodified as RCW 47.68.230 pursuant to 1977 1st ex.s. c 151 § 79.

47.68.236 Aircraft search and rescue, safety and education fund—Created—Moneys from registration of pilots deposited in. There is hereby created in the general fund of the state of Washington an account to be known as the aircraft search and rescue, safety and education fund. All moneys received by the commission under *RCW 14.04.233 shall be deposited in such account. [1967 c 207 § 3. Formerly RCW 14.04.236.]

* **Reviser's note:** RCW 14.04.233 recodified as RCW 47.68.233 pursuant to 1977 1st ex.s. c 151 § 79.

47.68.240 Penalties for violations. Any person violating any of the provisions of this chapter, or any of the rules, regulations or orders issued pursuant thereto, shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days, or both such fine and imprisonment: *Provided*, That any person violating any of the provisions of *RCW 14.04.220 or 14.04.230 shall be guilty of a gross misdemeanor which shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year or by both in any proceeding brought in superior court and by a fine of not more than five hundred dollars or by imprisonment for not more than six months or by both in any proceedings brought in justice court. In addition to, or in lieu of, the penalties provided in this section, or as a condition to the suspension of a sentence which may be imposed pursuant thereto, the court in its discretion may prohibit the violator from operating an aircraft within the state for such period as it may determine but not to exceed one year. Violation of the duly imposed

prohibition of the court may be treated as a separate offense under this section or as a contempt of court. [1947 c 165 § 24; Rem. Supp. 1947 § 10964-104. Formerly RCW 14.04.240.]

***Reviser's note:** RCW 14.04.220 and 14.04.230 recodified as RCW 47.68.220 and 47.68.230, respectively, pursuant to 1977 1st ex.s. c 151 § 79.

47.68.250 Registration of aircraft. Every aircraft shall be registered with the department of motor vehicles for each calendar year in which the aircraft is operated within this state. A fee of four dollars shall be charged for each such registration and each annual renewal thereof.

Possession of the appropriate effective federal certificate, permit, rating, or license relating to ownership and airworthiness of the aircraft, and payment of the excise tax imposed by Title 82 RCW for the privilege of using the aircraft within this state during the year for which the registration is sought, and payment of the registration fee required by this section shall be the only requisites for registration of an aircraft under this section.

The registration fee imposed by this section shall be payable to and collected by the director of the department of motor vehicles. The fee for any calendar year must be paid during the month of January, and shall be collected by the director of the department of motor vehicles at the time of the collection by him of the said excise tax. If the director of the department of motor vehicles is satisfied that the requirements for registration of the aircraft have been met, he shall thereupon issue to the owner of the aircraft a certificate of registration therefor. The director of the department of motor vehicles shall pay to the state treasurer the registration fees collected under this section, which registration fees shall be credited to the general fund.

It shall not be necessary for the registrant to provide the director of the department of motor vehicles with originals or copies of federal certificates, permits, ratings, or licenses. The director of the department of motor vehicles shall issue certificates of registration, or such other evidences of registration or payment of fees as he may deem proper; and in connection therewith may prescribe requirements for the possession and exhibition of such certificates or other evidences.

The provisions of this section shall not apply to:

(1) An aircraft owned by and used exclusively in the service of any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;

(2) An aircraft registered under the laws of a foreign country;

(3) An aircraft which is owned by a nonresident and registered in another state: *Provided*, That if said aircraft shall remain in and/or be based in this state for a period of ninety days or longer it shall not be exempt under this section;

(4) An aircraft engaged principally in commercial flying constituting an act of interstate or foreign commerce;

(5) An aircraft owned by the manufacturer thereof while being operated for test or experimental purposes, or for the purpose of training crews for purchasers of the aircraft;

(6) An aircraft being held for sale, exchange, delivery, test, or demonstration purposes solely as stock in trade of an aircraft dealer licensed under Title 14 RCW.

The director of the department of motor vehicles shall be notified within one week of any change in ownership of a registered aircraft. The notification shall contain the N, NC, NR, NL, or NX number of the aircraft, the full name and address of the former owner, and the full name and address of the new owner. For failure to so notify the director of the department of motor vehicles, the registration of that aircraft may be canceled by the director of the department of motor vehicles, subject to reinstatement upon application and payment of a reinstatement fee of ten dollars by the new owner. [1967 ex.s. c 9 § 8; 1955 c 150 § 11; 1949 c 49 § 12; 1947 c 165 § 25; Rem. Supp. 1949 § 10964-105. Formerly RCW 14.04.250.]

Reviser's note: "department of motor vehicles" redesignated "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Aircraft dealers: Chapter 14.20 RCW.

Definition of terms: RCW 14.20.010, 47.68.020.

47.68.280 Investigations, hearings, etc.—Subpoenas—Compelling attendance. The commission or any member thereof and the director or any officer or employee of the commission designated by it shall have the power to hold investigations, inquiries and hearings concerning matters covered by the provisions of this chapter including accidents in aeronautics within this state. Hearings shall be open to the public and, except as hereinafter provided, shall be held upon such call or notice as the commission shall deem advisable. Each member of the commission, the director and every officer or employee of the commission designated by it to hold any inquiry, investigation or hearing shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas, and order the attendance of witnesses and the production of papers, books and documents. In case of the failure of any person to comply with any subpoena or order issued under the authority of this section, the commission or its authorized representatives may invoke the aid of any competent court of general jurisdiction. The court may thereupon order such person to comply with the requirements of the subpoena or order or to give evidence touching the matter in question. Failure to obey the order of the court may be punished by the court as a contempt thereof. [1947 c 165 § 28; Rem. Supp. 1947 § 10964-108. Formerly RCW 14.04.280.]

Reviser's note: Powers, duties, and functions of director of aeronautics transferred to department of transportation; see RCW 47.01.031. Term "director of aeronautics" means secretary of transportation, see RCW 47.68.015.

47.68.290 Joint hearings—Cooperation. The commission is authorized to confer with or to hold joint

hearings with any agency of the United States in connection with any matter arising under this chapter, or relating to the development of aeronautics.

The commission is authorized to avail itself of the cooperation, services, records and facilities of the agencies of the United States as fully as may be practicable in the administration and enforcement of this chapter, and shall furnish to the agencies of the United States such services, records and facilities as may be practicable.

The commission shall report to the appropriate agency of the United States all accidents in aeronautics in this state of which it is informed, and shall in so far as is practicable preserve, protect and prevent the removal of the component parts of any aircraft involved in an accident being investigated by it until the federal agency institutes an investigation. [1947 c 165 § 29; Rem. Supp. 1947 § 10964–109. Formerly RCW 14.04.290.]

47.68.300 State and municipal agencies to cooperate. In carrying out the provisions of this chapter the commission may use the facilities and services of other agencies of the state and of the municipalities of the state to the utmost extent possible, and such agencies and municipalities are authorized and directed to make available their facilities and services. [1947 c 165 § 30; Rem. Supp. 1947 § 10964–110. Formerly RCW 14.04.300.]

47.68.310 Enforcement of aeronautics laws. It shall be the duty of the commission, its members, director, officers, and employees of the commission, and every state and municipal officer charged with the enforcement of state and municipal laws, to enforce and assist in the enforcement of this chapter and of all other laws of this state relating to aeronautics. The director and those officers or employees of the commission designated by the director in writing are hereby granted police powers solely for the enforcement of state aeronautics laws and the regulations having the effect of law. [1955 c 204 § 1; 1947 c 165 § 31; Rem. Supp. 1947 § 10964–111. Formerly RCW 14.04.310.]

Reviser's note: Powers, duties, and functions of director of aeronautics transferred to department of transportation; see RCW 47.01.031. Term "director of aeronautics" means secretary of transportation; see RCW 47.68.015.

47.68.320 Service of orders—Hearings—Review. Every order of the commission requiring performance of certain acts or compliance with certain requirements and any denial or revocation of an approval, certificate or license shall set forth the reasons and shall state the acts to be done or requirements to be met before approval by the commission will be given or the approval, license or certificate granted or restored or the order modified or changed. Orders issued by the commission pursuant to the provisions of this chapter shall be served upon the persons affected either by registered mail or in person. In every case where notice and opportunity for hearing are required under the provisions of this chapter the order of the commission shall, on not less than ten days notice, specify a time when and place

where the person affected may be heard, or the time within which he may request hearing, and such order shall become effective upon the expiration of the time for exercising such opportunity for hearing, unless a hearing is held or requested within the time provided, in which case the order shall be suspended until the commission shall affirm, disaffirm or modify such order after hearing held or default by the person affected. To the extent practicable, hearings on such orders shall be in the county where the affected person resides or does business. Any person aggrieved by an order of the commission or by the grant, denial or revocation of any approval, license or certificate may have the action of the commission reviewed by the courts of this state in the manner provided for, and subject to the rules of law applicable to the review of the orders of other administrative bodies of the state. [1947 c 165 § 32; Rem. Supp. 1947 § 10964–112. Formerly RCW 14.04.320.]

47.68.330 Exchange of data, reports of violations, etc. The commission is authorized to report to the appropriate federal agencies and agencies of other states all proceedings instituted charging violation of *RCW 14.04.220 and 14.04.230 and all penalties, of which it has knowledge, imposed upon airmen or the owners or operators of aircraft for violations of the law of this state relating to aeronautics or for violations of the rules, regulations or orders of the commission. The commission is authorized to receive reports of penalties and other data from agencies of the federal government and other states and, when necessary, to enter into agreements with federal agencies and the agencies of other states governing the delivery, receipt, exchange and use of reports and data. The commission may make the reports and data of the federal agencies, the agencies of other states, and the courts of this state available, with or without request therefor, to any and all courts of this state. [1947 c 165 § 33; Rem. Supp. 1947 § 10964–113. Formerly RCW 14.04.330.]

***Reviser's note:** RCW 14.04.220 and 14.04.230 recodified as RCW 47.68.220 and 47.68.230, respectively, pursuant to 1977 1st ex.s. c 151 § 79.

47.68.340 Marking hazardous structures and obstacles—Hearing to determine hazard. Any structure or obstacle which obstructs the air space above ground or water level, when determined by the commission after a hearing to be a hazard or potential hazard to the safe flight of aircraft, shall be plainly marked, illuminated, painted, lighted or designated in a manner to be approved in accordance with the general rules and regulations of the commission so that the same will be clearly visible to airmen. In determining which structures or obstacles constitute or may become a hazard to air flight, the commission shall take into account only those obstacles located at river, lake and canyon crossings and in other low altitude flight paths usually traveled by aircraft. [1961 c 263 § 2. Formerly RCW 14.04.340.]

47.68.350 Marking hazardous structures and obstacles—Reporting location of hazardous structures or obstacles—Subpoenas. The director shall have the

authority to require owners, operators, lessees or others having the control or management of structures or obstacles over one hundred fifty feet above ground or water level and which are or may become a hazard to air flight to report the location of such existing or proposed structures or obstacles to the commission. For that purpose the director may issue subpoenas and subpoenas duces tecum returnable within twenty days to the commission. In the event a person refuses to obey the director's subpoena, the commission may certify to the superior court all facts of any such refusal. The court shall summarily hear evidence on such refusal, and, if the evidence warrants, punish such person refusing in the same manner and to the same extent as for contempt committed before the court. [1961 c 263 § 3. Formerly RCW 14.04.350.]

Reviser's note: Powers, duties, and functions of director of aeronautics transferred to department of transportation; see RCW 47.01.031. Term "director of aeronautics" means secretary of transportation; see RCW 47.68.015.

47.68.360 Marking hazardous structures and obstacles—Exemption of structures required by federal law to be marked. *RCW 14.04.340 and 14.04.350 shall not apply to structures required to be marked by federal regulations. [1961 c 263 § 4. Formerly RCW 14.04.360.]

***Reviser's note:** RCW 14.04.340 and 14.04.350 recodified as RCW 47.68.340 and 47.68.350, respectively, pursuant to 1977 1st ex.s. c 151 § 79.

47.68.370 Washington wing civil air patrol—Declaration of public purpose—Consultation, cooperation and contracts with commission. It is declared to be the public policy of the state of Washington to direct the financial resources of this state toward the support and aid of air search, rescue, and emergency services within the state in order to promote the general welfare of its citizens. The legislature further declares that the operation of crash, rescue, emergency operations, and organization communications in the event of natural or other disasters, the performance of emergency missions for other federal and state agencies such as the patrol of forests, pipelines, flood areas, the transportation of critical parts and supplies, and the education and character development of our young people with the cadet program of the Washington wing civil air patrol serves the public interest. The Washington wing civil air patrol is a nonprofit, federally chartered, private corporation, which is an auxiliary of the United States Air Force and is engaged in cooperation with the national, state, and local emergency services effort and the Washington aeronautics commission, which serves the public interest and purpose, and is staffed by civilian volunteers engaged in their contribution to the public welfare at no reimbursement for their efforts.

In expending moneys appropriated by the legislature, the Washington wing civil air patrol shall consult and cooperate with the Washington aeronautics commission so that maximum education and development in aeronautical matters can be accomplished and the maximum contribution to emergency services can be made.

The Washington aeronautics commission is hereby authorized to contract with the Washington wing civil air patrol to accomplish the purposes set forth in this section, and to furnish accommodations, goods, and services to the Washington wing civil air patrol as may be necessary to accomplish the purposes of this section. [1975-'76 2nd ex.s. c 73 § 1. Formerly RCW 14.04.370.]

Reviser's note: Powers, duties, and functions of aeronautics commission transferred to department of transportation; see RCW 47.01.031. Term "aeronautics commission" means department of transportation; see RCW 47.68.015.

47.68.900 Severability—1947 c 165. If any provision of this act or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of this act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are declared to be severable. [1947 c 165 § 35. Formerly RCW 14.04.900.]

47.68.910 Short title—1947 c 165. This act may be cited as the "State Aeronautics Commission Act." [1947 c 165 § 37. Formerly RCW 14.04.910.]

Chapter 47.72

NAVIGATION CANALS

(Formerly: Chapter 91.12 RCW, canal commission)

Sections

47.72.010	Declaration of purpose.
47.72.050	Powers and duties.
47.72.060	"Canal" defined.

47.72.010 Declaration of purpose. The purposes of this chapter are to aid commerce and navigation, including the development of recreational facilities related thereto, and to otherwise promote the general welfare by the development of navigation canals within the boundaries of the state of Washington. [1965 ex.s. c 123 § 1. Formerly RCW 91.12.010.]

47.72.050 Powers and duties. In its capacity as successor to the canal commission, the department of transportation may:

(1) Adopt rules and regulations necessary to carry out the purposes of this chapter.

(2) Make such investigations, surveys, and studies it deems necessary to determine the feasibility of the development of a navigation canal, or systems of navigation canals within the state of Washington.

(3) Construct, maintain, and/or operate any navigation canal, or navigation canal systems deemed feasible by the department of transportation.

(4) Acquire by gift, purchase, or condemnation from any person, municipal, public, or private corporation, or the state of Washington, or lease from the United States of America, any lands, rights of way, easements, or property rights in, over, or across lands or waters necessary for the construction, operation, or maintenance of any navigation canal, or navigation canal system. The

acquisition of such rights is for a public use. The exercise of the right of eminent domain shall be in the manner provided by chapter 8.04 RCW, and all actions initiated thereunder shall be brought in the name of the department of transportation.

(5) Hold public hearings. Prior to a determination of feasibility for any proposed project, the department shall hold a public hearing so that members of the public may present their views thereon.

(6) Accept and expend moneys appropriated by the legislature or received from any public or private source, including the federal government, in carrying out the purposes of this chapter.

(7) Negotiate and cooperate with the United States of America for the purpose of inducing the United States to undertake the construction, operation, or maintenance of any navigation canal, or navigation canal system provided for in this chapter.

(8) As a local sponsor cooperate, contract, and otherwise fully participate on behalf of the state of Washington with the United States of America, in any study relating to a determination of feasibility of a navigation canal or navigation canal system, and in any project relating to the construction, operation, or maintenance of a navigation canal, or navigation canal system to be undertaken by the United States of America.

The authority granted herein includes, but is not limited to, contributing such moneys to the United States of America as may be required and appropriated for that purpose by the legislature and furnishing without cost to the United States of America all lands, easements, and rights of way, performing all necessary alterations to utilities arising from any project, and holding the United States of America free from any claims for damages arising out of the construction of any project. [1977 1st ex.s. c 151 § 75; 1965 ex.s. c 123 § 5. Formerly RCW 91.12.050.]

47.72.060 "Canal" defined. For the purposes of this chapter, "canal" is defined as any waterway for navigation created by construction of reservoirs or construction of channels by excavation in dry ground, in streams, rivers or in tidal waters and any existing waterway incorporated into such a canal and including any appurtenant features necessary for operation and maintenance of the canal. [1965 ex.s. c 123 § 6. Formerly RCW 91.12.060.]

Chapter 47.98 CONSTRUCTION

Sections

47.98.070	Federal requirements.
47.98.080	Severability—1977 1st ex.s. c 151.
47.98.090	Liberal construction.

47.98.070 Federal requirements. If any part of this title or any section of *this 1977 amendatory act is ruled to be in conflict with federal requirements which are a prescribed condition of the allocation of federal funds to the state, or to any department or agencies thereof, such conflicting part or section is declared to be inoperative

solely to the extent of the conflict. No such ruling shall affect the operation of the remainder of the act. Any internal reorganization carried out under the terms of this title or any section of *this 1977 amendatory act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1977 1st ex.s. c 151 § 76.]

***Reviser's note:** "this 1977 amendatory act" consisted of the enactment of new sections codified as RCW 1.08.120, 41.06.079, 47.01.011, 47.01.021, 47.01.031, 47.01.041, 47.01.051, 47.01.061, 47.01.071, 47.01.081, 47.01.091, 47.01.101, 47.01.111, 47.01.121, 47.01.131, 47.01.250, 47.04.015, 47.04.150, 47.68.015, 47.98.070, 47.98.080, and 47.98.090, new sections 12, 14, 15, 16, 17, and 25 which were not codified but appear as footnotes to certain of the above sections, the amendment of RCW 43.17.010, 43.17.020, 43.63A.070, 46.44.080, 46.44.090, 46.44.091, 46.44.092, 46.44.095, 46.61.405, 46.61.410, 46.61.415, 46.61.425, 46.61.430, 46.61.450, 46.61.570, 46.61.575, 46.68.120, 47.01.070, 47.05.020, 47.05.030, 47.05.070, 47.12.010, 47.12.060, 47.12.070, 47.12.080, 47.12.120, 47.12.130, 47.12.140, 47.12.150, 47.12.190, 47.12.200, 47.12.220, 47.24.010, 47.26.140, 47.28.010, 47.36.020, 47.36.030, 47.52.027, 47.52.139, 47.52.150, 47.52.180, 47.56.030, 47.56.070, 47.56.080, 47.56.090, 47.56.120, 47.56.250, 47.56.254, 88.16.010, 88.16.020, and 91.12.050 (recodified as RCW 47.72.050), the repeal of RCW 14.04.030, 14.04.040, 14.04.050, 47.01.010, 47.01.020, 47.01.030, 47.01.040, 47.01.050, 47.01.060, 47.01.080, 47.01.090, 47.01.100, 47.01.110, 47.01.120, 47.01.130, 47.01.160, 47.56.034, 91.12.020, 91.12.030, and 91.12.040, and directed the recodification of chapters 14.04 and 91.12 RCW as new chapters in Title 47 RCW.

47.98.080 Severability—1977 1st ex.s. c 151. If any provision of *this 1977 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. [1977 1st ex.s. c 151 § 77.]

***Reviser's note:** "this 1977 amendatory act", see note following RCW 47.98.070.

47.98.090 Liberal construction. The rule of strict construction shall have no application to this title, and it shall be liberally construed in order to carry out the objectives for which it is designed. Any ambiguities arising from its interpretation should be resolved consistently with the broad purposes set forth in RCW 47.01.011. [1977 1st ex.s. c 151 § 78.]

Title 48 INSURANCE

Chapters

48.02	Insurance commissioner.
48.05	Insurers—General requirements.
48.12	Assets and liabilities.
48.14	Fees and taxes.
48.15	Unauthorized insurers.
48.17	Agents, brokers, solicitors, and adjusters.
48.21	Group and blanket disability insurance.
48.23	Life insurance and annuities.
48.30	Unfair practices and frauds.
48.32	Washington insurance guaranty association act.

- 48.32A Washington life and disability insurance guaranty association act.
- 48.34 Credit life insurance and credit accident and health insurance.
- 48.36 Fraternal.
- 48.40 Funeral services.
- 48.44 Health care services.
- 48.48 State fire marshal.

**Chapter 48.02
INSURANCE COMMISSIONER**

Sections

- 48.02.170 Annual report.
- 48.02.180 Publication of insurance code and related statutes, manuals, etc.—Distribution—Sale.

48.02.170 Annual report. The commissioner shall, as soon as accurate preparation enables, transmit to the legislature a report of his official transactions during the preceding fiscal year, containing recommendations for amendment of this code and information and recommendations relative to insurance as he deems proper. [1977 c 75 § 69; 1947 c 79 § .02.17; Rem. Supp. 1947 § 45.02.17.]

48.02.180 Publication of insurance code and related statutes, manuals, etc.—Distribution—Sale. (1) In addition to such publications as are otherwise authorized under this code, the commissioner may from time to time prepare and publish:

(a) Booklets containing the insurance code, or supplements thereto, and such related statutes as the commissioner deems suitable and useful for inclusion in an appendix of such booklet or supplement.

(b) Manuals and other material relative to examinations for licensing as provided in chapter 48.17 RCW.

(2) The commissioner may furnish copies of the insurance code, supplements thereto, and related statutes referred to in subdivision (a) above, free of charge to public offices and officers in this state concerned therewith, to public officials of other states and jurisdictions having supervision of insurance, to the library of congress, and to officers of the armed forces of the United States of America located at military installations in this state who are concerned with insurance transactions at or involving such military installations.

(3) Except as provided in subsection (2) above, the commissioner shall sell copies of the insurance code, supplements thereto, examination manuals, and materials as referred to in subsection (1) above, at a reasonable price, fixed by the commissioner, in amount not less than the cost of publication, handling, and distribution thereof. The commissioner shall promptly deposit all funds received by him pursuant to this subsection with the state treasurer to the credit of the general fund. [1977 c 75 § 70; 1959 c 225 § 1.]

**Chapter 48.05
INSURERS—GENERAL REQUIREMENTS**

Sections

- 48.05.300 Credit disallowed for reinsurance ceded to an insurer—Exceptions.

48.05.300 Credit disallowed for reinsurance ceded to an insurer—Exceptions. No credit shall be allowed to any insurer, as an asset or as a deduction from liability for reinsurance ceded to an insurer, other than under a contract of ocean marine insurance except as provided in RCW 48.12.160. [1977 1st ex.s. c 180 § 1; 1947 c 79 § .05.30; Rem. Supp. 1947 § 45.05.30.]

**Chapter 48.12
ASSETS AND LIABILITIES**

Sections

- 48.12.010 "Assets" defined.
- 48.12.160 Credit for reinsurance.

48.12.010 "Assets" defined. In any determination of the financial condition of any insurer there shall be allowed as assets only such assets as belong wholly and exclusively to the insurer, which are registered, recorded, or held under the insurer's name, and which consist of:

(1) Cash in the possession of the insurer or in transit under its control, and the true balance of any deposit of the insurer in a solvent bank or trust company;

(2) Investments, securities, properties, and loans acquired or held in accordance with this code, and in connection therewith the following items:

(a) Interest due or accrued on any bond or evidence of indebtedness which is not in default and which is not valued on a basis including accrued interest.

(b) Declared and unpaid dividends on stocks and shares unless such amount has otherwise been allowed as an asset.

(c) Interest due or accrued upon a collateral loan in an amount not to exceed one year's interest thereon.

(d) Interest due or accrued on deposits in solvent banks and trust companies, and interest due or accrued on other assets if such interest is in the judgment of the commissioner a collectible asset.

(e) Interest due or accrued on a mortgage loan, in amount not exceeding in any event the amount, if any, of the difference between the unpaid principal and the value of the property less delinquent taxes thereon; but if any interest on the loan is in default more than eighteen months, or if any interest on the loan is in default and any taxes or any installment thereof on the property are and have been due and unpaid for more than eighteen months, no allowance shall be made for any interest on the loan.

(f) Rent due or accrued on real property if such rent is not in arrears for more than three months.

(3) Premium notes, policy loans, and other policy assets and liens on policies of life insurance, in amount not exceeding the legal reserve and other policy liabilities carried on each individual policy;

(4) The net amount of uncollected and deferred premiums in the case of a life insurer which carries the full annual mean tabular reserve liability;

(5) Premiums in the course of collection, other than for life insurance, not more than ninety days past due, less commissions payable thereon. The foregoing limitation shall not apply to premiums payable directly or indirectly by the United States government or any of its instrumentalities;

(6) Installment premiums other than life insurance premiums, in accordance with regulations prescribed by the commissioner consistent with practice formulated or adopted by the National Association of Insurance Commissioners;

(7) Notes and like written obligations not past due, taken for premiums other than life insurance premiums, on policies permitted to be issued on such basis, to the extent of the unearned premium reserves carried thereon and unless otherwise required by regulation prescribed by the commissioner;

(8) Reinsurance recoverable subject to RCW 48.12.160;

(9) Amounts receivable by an assuming insurer representing funds withheld by a solvent ceding insurer under a reinsurance treaty;

(10) Deposits or equities recoverable from underwriting associations, syndicates and reinsurance funds, or from any suspended banking institution, to the extent deemed by the commissioner available for the payment of losses and claims and at values to be determined by him;

(11) Electronic and mechanical machines constituting a data processing and accounting system if the cost of such system is at least twenty-five thousand dollars, which cost shall be amortized in full over a period not to exceed ten calendar years; and

(12) Other assets, not inconsistent with the foregoing provisions, deemed by the commissioner available for the payment of losses and claims, at values to be determined by him. [1977 1st ex.s. c 180 § 2; 1963 c 195 § 11; 1947 c 79 § .12.01; Rem. Supp. 1947 § 45.12.01.]

48.12.160 Credit for reinsurance. (1) Any insurance company organized under the laws of this state may take credit as an asset or as a deduction from loss and unearned premium reserves on risks ceded to a reinsurer to the extent reinsured by an insurer or insurers authorized to transact business in this state. The credit on ceded risks reinsured by any insurer which is not authorized to transact business in this state may be taken:

(a) Where the reinsurer maintains sufficient assets in the United States for the protection of policyholders in the United States and operates its business in such manner as to satisfy the commissioner that it maintains a financial condition reasonably comparable to those required of admitted insurers and that it is able to pay losses in the United States; or

(b) In an amount not exceeding:

(i) The amount of deposits by and funds withheld from the assuming insurer pursuant to express provision therefor in the reinsurance contract, as security for the

payment of the obligations thereunder, if the deposits or funds are held subject to withdrawal by and under the control of the ceding insurer or if the deposits or funds are placed in trust for these purposes in a bank which is a member of the federal reserve system and withdrawals from the trust cannot be made without the consent of the ceding company; or

(ii) The amount of a clean and irrevocable letter of credit issued by a bank which is a member of the federal reserve system for a term of at least two years if the letter of credit is issued under arrangements satisfactory to the commissioner of insurance as constituting security to the ceding insurer substantially equal to that of a deposit under subparagraph (i) of this subsection.

(2) Any reinsurance ceded by a company organized under the laws of this state or ceded by any company not organized under the laws of this state and transacting business in this state must be payable by the assuming insurer on the basis of liability of the ceding company under the contract or contracts reinsured without diminution because of the insolvency of the ceding company, and any such reinsurance agreement which may be cancelled on less than ninety days notice must provide for a run-off of the reinsurance in force at the date of cancellation.

(3) A reinsurance agreement may provide that the liquidator or receiver or statutory successor of an insolvent ceding insurer shall give written notice of the pendency of a claim against the insolvent ceding insurer on the policy or bond reinsured within a reasonable time after such claim is filed in the insolvency proceeding and that during the pendency of such claim any assuming insurer may investigate such claim and interpose, at its own expense, in the proceeding where such claim is to be adjudicated, any defense or defenses which it may deem available to the ceding insurer or its liquidator or receiver or statutory successor.

The expense thus incurred by the assuming insurer shall be chargeable subject to court approval against the insolvent ceding insurer as a part of the expense of liquidation to the extent of a proportionate share of the benefit which may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer.

(4) Where two or more assuming insurers are involved in the same claim and a majority in interest elect to interpose to such claim, the expense shall be apportioned in accordance with the terms of the reinsurance agreement as though such expense had been incurred by the ceding insurer. [1977 1st ex.s. c 180 § 3; 1947 c 79 § .12.16; Rem. Supp. 1947 § 45.12.16.]

Chapter 48.14 FEES AND TAXES

Sections

48.14.010 Fee schedule.

48.14.010 Fee schedule. (1) The commissioner shall collect in advance the following fees:

- (a) **For filing charter documents:**
 - (i) Original charter documents, bylaws or record of organization of insurers, or certified copies thereof, required to be filed \$250.00
 - (ii) Amended charter documents, or certified copy thereof, other than amendments of bylaws \$ 10.00
 - (iii) No additional charge or fee shall be required for filing any of such documents in the office of the secretary of state.
- (b) **Certificate of authority:**
 - (i) Issuance \$ 25.00
 - (ii) Renewal \$ 25.00
- (c) **Annual statement of insurer, filing \$ 20.00**
- (d) **Organization or financing of domestic insurers and affiliated corporations:**
 - (i) Application for solicitation permit, filing \$100.00
 - (ii) Issuance of solicitation permit \$ 25.00
- (e) **Agents' licenses:**
 - (i) Agent's licenses for life, or disability insurance, only, or both for same insurer, each year \$ 10.00
 - (ii) Agent's license for other kind or kinds of insurance, each year \$ 25.00
Filing of appointment of each such agent \$ 10.00
 - (iii) Limited license issued pursuant to RCW 48.17.190, each year \$ 10.00
 - (iv) Temporary license as agent \$ 10.00
- (f) **Brokers' licenses:**
 - (i) Resident or nonresident broker, each year \$ 50.00
 - (ii) Surplus line broker, twelve-month period \$100.00
 - (iii) Temporary license as broker \$ 50.00
- (g) **Solicitors' license, each year \$ 10.00**
- (h) **Adjusters' licenses:**
 - (i) Independent adjuster, each year \$ 25.00
 - (ii) Public adjuster, each year \$ 25.00
- (i) **Resident general agent's license, each year \$ 25.00**
- (j) **Examination for license, each examination:**
 - (i) Filing application for first examination for license \$ 5.00
 - (ii) Resident or nonresident broker's license \$ 50.00
 - (iii) All other examinations \$ 10.00
- (k) **Miscellaneous services:**
 - (i) Filing other documents \$ 5.00
 - (ii) Commissioner's certificate under seal \$ 5.00
 - (iii) Copy of documents filed in the commissioner's office, reasonable charge therefor as determined by the commissioner.

of the general fund. [1977 1st ex.s. c 182 § 1; 1969 ex.s. c 241 § 8; 1967 c 150 § 12; 1955 c 303 § 4; 1947 c 79 § .14.01; Rem. Supp. 1947 § 45.14.01.]

**Chapter 48.15
UNAUTHORIZED INSURERS**

Sections
48.15.070 Surplus line brokers—Licensing.

48.15.070 Surplus line brokers—Licensing. Any person deemed by the commissioner to be competent and trustworthy and while maintaining an office at a designated location in this state may be licensed as a surplus line broker, as follows:

(1) Application to the commissioner for the license shall be made on forms furnished by the commissioner.

(2) The license fee shall be one hundred dollars for each license year during any part of which the license is in force. The license year shall be from the date of issuance of the license.

(3) Prior to issuance of license the applicant shall file with the commissioner and thereafter for as long as the license remains in effect he shall keep in force a bond in favor of the state of Washington in the penal sum of twenty thousand dollars, with authorized corporate sureties approved by the commissioner, conditioned that he will conduct business under the license in accordance with the provisions of this chapter and that he will promptly remit the taxes provided by RCW 48.15.120. No such bond shall be terminated unless not less than thirty days prior written notice thereof is filed with the commissioner. [1977 1st ex.s. c 182 § 2; 1959 c 225 § 4; 1947 c 79 § .15.07; Rem. Supp. 1947 § 45.15.07.]

**Chapter 48.17
AGENTS, BROKERS, SOLICITORS, AND
ADJUSTERS**

Sections
48.17.110 Examination of applicants.
48.17.250 Broker's bond.
48.17.430 Public adjuster's bond.
48.17.500 Expiration and renewal of licenses.

48.17.110 Examination of applicants. (1) Each applicant for license as agent, broker, solicitor, or adjuster shall prior to the issuance of any such license, personally take and pass to the satisfaction of the examining authority, an examination given as a test of his qualifications and competence, but this requirement shall not apply to:

(a) Applicants for limited licenses under RCW 48.17-.190, at the discretion of the commissioner.

(b) Applicants who within the two year period next preceding date of application have been licensed in this state under a license requiring qualifications similar to qualifications required by the license applied for or who have successfully completed a course of study recognized as a mark of distinction by the insurance industry and

(2) All fees so collected shall be remitted by the commissioner to the state treasurer not later than the first business day following, and shall be placed to the credit

who are deemed by the commissioner to be fully qualified and competent.

(c) Applicants for license as nonresident agent or as nonresident broker or as nonresident adjuster who are duly licensed in their state of residence and who are deemed by the commissioner to be fully qualified and competent for a similar license in this state.

(d) Applicants for an agent's or solicitor's license covering the same kinds of insurance as an agent's or solicitor's license then held by them.

(e) Applicants for an adjuster's license who for a period of one year, a portion of which was in the year next preceding the date of application, have been a full time salaried employee of an insurer or of a general agent to adjust, investigate, or report claims arising under insurance contracts.

(2) Any person licensed as an insurance broker by this state prior to June 8, 1967, who is otherwise qualified to be a licensed insurance broker, shall be entitled to renew his broker's license by payment of the applicable fee for such of the broker's licenses authorized by RCW 48.17-.240, as he shall elect, without taking any additional examination, except as provided in subsection (3).

(3) The commissioner may at any time require any licensed agent, broker, solicitor, or adjuster to take and successfully pass an examination testing his competence and qualifications as a condition to the continuance or renewal of his license, if the licensee has been guilty of violation of this code, or has so conducted his affairs under his license as to cause the commissioner reasonably to desire further evidence of his qualifications. [1977 1st ex.s. c 182 § 3; 1967 c 150 § 16; 1965 ex.s. c 70 § 19; 1963 c 195 § 17; 1955 c 303 § 10; 1949 c 190 § 23; 1947 c 79 § .17.11; Rem. Supp. 1949 § 45.17.11.]

48.17.250 Broker's bond. (1) Every applicant for a broker's license or for the renewal of a broker's license existing on the effective date of this code shall file with the application or request for renewal and shall thereafter maintain in force while so licensed a bond in favor of the people of the state of Washington, executed by an authorized corporate surety approved by the commissioner, in the amount of twenty thousand dollars. The bond may be continuous in form, and total aggregate liability on the bond may be limited to the payment of twenty thousand dollars. The bond shall be contingent on the accounting by the broker to any person requesting the broker to obtain insurance, for moneys or premiums collected in connection therewith.

(2) Any such bond shall remain in force until the surety is released from liability by the commissioner, or until the bond is canceled by the surety. Without prejudice to any liability accrued prior to such cancellation, the surety may cancel the bond upon thirty days advance notice in writing filed with the commissioner. [1977 1st ex.s. c 182 § 4; 1947 c 79 § .17.25; Rem. Supp. 1947 § 45.17.25.]

48.17.430 Public adjuster's bond. (1) Prior to the issuance of a license as public adjuster, the applicant therefor shall file with the commissioner and shall thereafter maintain in force while so licensed a surety

bond in favor of the people of the state of Washington, executed by an authorized corporate surety approved by the commissioner, in the amount of five thousand dollars. The bond may be continuous in form, and total aggregate liability on the bond may be limited to the payment of five thousand dollars. The bond shall be contingent on the accounting by the adjuster to any insured whose claim he is handling, for moneys or any settlement received in connection therewith.

(2) Any such bond shall remain in force until the surety is released from liability by the commissioner, or until canceled by the surety. Without prejudice to any liability accrued prior to cancellation, the surety may cancel a bond upon thirty days advance notice in writing filed with the commissioner.

(3) Such bond shall be required of any adjuster acting as a public adjuster as of the effective date of this code, or thereafter under any unexpired license heretofore issued. [1977 1st ex.s. c 182 § 5; 1947 c 79 § .17.43; Rem. Supp. 1947 § 45.17.43.]

48.17.500 Expiration and renewal of licenses. (1) Agents' license for life, or life and disability, or disability insurances only shall expire as at 12:01 a.m. o'clock on the first day of October next following date of issuance.

(2) All brokers', solicitors', and adjusters' licenses shall expire as at 12:01 a.m. o'clock on the first day of April next following date of issuance.

(3) Agents' licenses for all other kinds of insurance or combinations thereof shall expire as at 12:01 a.m. o'clock on the first day of April three years after the first day of April nearest to the date of issuance of the license: *Provided*, That any such license issued or renewed to be effective on or after July 1, 1977, shall expire as at 12:01 a.m. o'clock on the first day of April next following date of issuance or renewal.

(4) Except as provided in subsection (3) of this section and subject to the right of the commissioner to suspend, revoke, or refuse to renew any license as provided in this code, any such license may be renewed into another like period by filing with the commissioner on or before the expiration date a written request, by or on behalf of the licensee, for such renewal accompanied by payment of the renewal fee as specified in RCW 48.14.010. An agent or broker shall make and file renewal requests on behalf of his solicitors.

(5) If request and fee for renewal of license is filed with the commissioner prior to expiration of the existing license, the licensee may continue to act under such license, unless sooner revoked or suspended, until the issuance of renewal license or until the expiration of fifteen days after the commissioner has refused to renew the license and has mailed order of such refusal to the licensee. Any request for renewal not so filed until after date of expiration may be considered by the commissioner as an application for a new license.

(6) As to all licenses, if request for renewal of license or payment of the license fee is not received by the commissioner prior to expiration date as required under subsection (4) the applicant for renewal of license shall

pay to the commissioner and the commissioner shall collect, in addition to the regular license fee, a surcharge for such license as follows: For the first thirty days or part thereof of delinquency the surcharge shall be fifty percent of the license fee; for all delinquencies extending more than thirty days, the surcharge shall be one hundred percent of the license fee. This subsection shall not be deemed to exempt any person from any penalty provided by law for transacting business without a valid and subsisting license, or affect the commissioner's right, at his discretion, to consider such delinquent application as one for a new license. [1977 1st ex.s. c 182 § 6; 1965 ex.s. c 70 § 20; 1957 c 193 § 9; 1953 c 197 § 7; 1947 c 79 § .17.50; Rem. Supp. 1947 § 45.17.50.]

Chapter 48.21

GROUP AND BLANKET DISABILITY INSURANCE

Sections

48.21.150 Coverage of dependent child not to terminate because of developmental disability or physical handicap.

48.21.150 Coverage of dependent child not to terminate because of developmental disability or physical handicap. Any group disability insurance contract or blanket disability insurance contract, providing health care services, delivered or issued for delivery in this state more than one hundred twenty days after August 11, 1969, which provides that coverage of a dependent child of an employee or other member of the covered group shall terminate upon attainment of the limiting age for dependent children specified in the contract shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such child while the child is and continues to be both (1) incapable of self-sustaining employment by reason of developmental disability or physical handicap and (2) chiefly dependent upon the employee or member for support and maintenance, provided proof of such incapacity and dependency is furnished to the insurer by the employee or member within thirty-one days of the child's attainment of the limiting age and subsequently as may be required by the insurer, but not more frequently than annually after the two year period following the child's attainment of the limiting age. [1977 1st ex.s. c 80 § 32; 1969 ex.s. c 128 § 4.]

~~Purpose~~—~~Intent~~—~~Severability~~—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Chapter 48.23

LIFE INSURANCE AND ANNUITIES

Sections

48.23.080 Policy loan.
48.23.380 Return of policy and refund of premium—Grace period—Notice—Effect.

48.23.080 Policy loan. (1) There shall be a provision that after three full years' premiums have been paid thereon, the insurer at any time, while the policy is in force, will advance, on proper assignment or pledge of

the policy and on the sole security thereof, at a rate of interest provided for in paragraph (c) of this subsection, a sum to be determined as follows:

(a) If such policy is issued prior to the operative date of RCW 48.23.350, the sum, including any interest paid in advance but not beyond the end of the current policy year, shall be equal to or at the option of the owner of the policy less than, the reserve at the end of the current policy year on the policy and on any dividend additions thereto, less a sum not more than two and one-half percent of the amount insured by the policy and of any dividend additions thereto. The policy may contain a provision by which the insurer reserves the right to defer the making of the loan, except when made to pay premiums, for a period not exceeding six months after the date of application therefor.

(b) If such policy is issued on or after such operative date, the sum, including any interest to the end of the current policy year shall not exceed the cash surrender value at the end of the current policy year, as required by RCW 48.23.350.

(c) (i) The policy shall contain (A) a provision that policy loans shall bear interest at a specified rate not exceeding six percent per annum, or (B) a provision that policy loans shall bear interest at a variable of not less than four nor more than eight percent per annum.

(ii) The variable rate shall not be changed more frequently than once per year and no change may exceed one percent per annum except reductions. The insurer shall give at least thirty days' notice to the policy owner or the owner's designee of any changes in the interest rate.

(2) Such policy shall further provide that the insurer may deduct from such loan value any existing indebtedness on the policy (unless such indebtedness has already been deducted in determining the cash surrender value) and any unpaid balance of the premium for the current policy year; and that if the loan is made or repaid on a date other than the anniversary of the policy, the insurer shall be entitled to interest for the portion of the current policy year at the rate of interest specified in the policy.

(3) Such policy may further provide that if the interest on the loan is not paid when due, it shall be added to the existing indebtedness and shall bear interest at the same rate; and that if and when the total indebtedness on the policy, including interest due or accruing, equals or exceeds the amount of the loan value thereof which would otherwise exist at such time, the policy shall terminate in full settlement of such indebtedness and become void; except, that it shall be stipulated in the policy that no such termination shall be effective prior to the expiration of at least thirty days after notice of the pendency of the termination was mailed by the insurer to the insured and the assignee, if any, at their respective addresses last of record with the insurer.

(4) The insurer shall provide in any policy issued on or after the operative date of RCW 48.23.350 that the making of any loan, other than a loan to pay premiums, may be deferred for not exceeding six months after the application for the loan has been received by it. [1977 1st ex.s. c 250 § 1; 1947 c 79 § .23.08; Rem. Supp. 1947 § 45.23.08.]

Construction—1977 1st ex.s. c 250: "This 1977 amendatory act shall not impair the terms and conditions of any policy of life insurance in force prior to the effective date of this 1977 amendatory act." [1977 1st ex.s. c 250 § 2.] This applies to the amendment to RCW 48.23.080 by 1977 1st ex.s. c 250 § 1.

48.23.380 Return of policy and refund of premium—Grace period—Notice—Effect. Every individual life insurance policy issued after September 1, 1977, shall have printed on its face or attached thereto a notice stating in substance that the policy owner shall be permitted to return the policy within ten days after it is received by the policy owner and to have the premium paid refunded if, after examination of the policy, the policy owner is not satisfied with it for any reason. If a policy owner pursuant to such notice, returns the policy to the insurer at its home or branch office or to the agent through whom it was purchased, it shall be void from the beginning and the parties shall be in the same position as if no policy had been issued.

This section shall not apply to individual life insurance policies issued in connection with a credit transaction or issued under a contractual policy change or conversion privilege provision contained in a policy. [1977 c 60 § 1.]

Chapter 48.30

UNFAIR PRACTICES AND FRAUDS

Sections

48.30.260	Right of debtor or borrower to select agent, broker, insurer.
48.30.310	Commercial motor vehicle employment driving record not to be considered, when.

48.30.260 Right of debtor or borrower to select agent, broker, insurer. (1) Every debtor or borrower, when property insurance of any kind is required in connection with the debt or loan, shall have reasonable opportunity and choice in the selection of the agent, broker, and insurer through whom such insurance is to be placed; but only if the insurance is properly provided for the protection of the creditor or lender not later than at commencement of risk as to such property as respects such creditor or lender, and in the case of renewal of insurance, only if the renewal policy, or a proper binder therefor containing a brief description of the coverage bound and the identity of the insurer in which the coverage is bound, is delivered to the creditor or lender not later than thirty days prior to the renewal date.

(2) Every person who lends money or extends credit and who solicits insurance on real and personal property must explain to the borrower in prominently displayed writing that the insurance related to such loan or credit extension may be purchased from an insurer or agent of the borrower's choice, subject only to the lender's right to reject a given insurer or agent as provided in subsection (3)(b) of this section.

(3) No person who lends money or extends credit may:

(a) Solicit insurance for the protection of real property, after a person indicates interest in securing a real

estate loan or credit extension, until such person has received a commitment from the lender as to a loan or credit extension;

(b) Unreasonably reject a contract of insurance furnished by the borrower for the protection of the property securing the credit or lien. A rejection shall not be deemed unreasonable if it is based on reasonable standards, uniformly applied, relating to the extent of coverage required and the financial soundness and the services of an insurer. Such standards shall not discriminate against any particular type of insurer, nor shall such standards call for rejection of an insurance contract because the contract contains coverage in addition to that required in the credit transaction;

(c) Require that any borrower, mortgagor, purchaser, insurer, broker, or agent pay a separate charge, in connection with the handling of any contract of insurance required as security for a loan on real estate, or pay a separate charge to substitute the insurance policy of one insurer for that of another. This subsection does not include the interest which may be charged on premium loans or premium advancements in accordance with the terms of the loan or credit document;

(d) Use or disclose, without the prior written consent of the borrower, mortgagor, or purchaser taken at a time other than the making of the loan or extension of credit, information relative to a contract of insurance which is required by the credit transaction, for the purpose of replacing such insurance; or

(e) Require any procedures or conditions of duly licensed agents, brokers, or insurers not customarily required of those agents, brokers, or insurers affiliated or in any way connected with the person who lends money or extends credit.

(4) Nothing contained in this section shall prevent a person who lends money or extends credit from placing insurance on real or personal property in the event the mortgagor, borrower, or purchaser has failed to provide required insurance in accordance with the terms of the loan or credit document.

(5) Nothing contained in this section shall apply to credit life or credit disability insurance. [1977 c 61 § 1; 1957 c 193 § 20.]

48.30.310 Commercial motor vehicle employment driving record not to be considered, when. When an individual applies for a policy of casualty insurance providing either automobile liability coverage, uninsured motorist coverage, automobile medical payments coverage, or automobile physical damage coverage on an individually owned passenger vehicle or a renewal of such policy, an insurer shall not consider the applicant's commercial motor vehicle employment driving record in determining whether the policy will be issued or renewed or in determining the rates for the policy. An insurer shall not cancel such policy or discriminate in regard to other terms or conditions of the policy based upon the applicant's commercial motor vehicle employment driving record.

"Employment driving record" means that record maintained by the director pertaining to motor vehicle accidents or convictions for violation of motor vehicle

laws while the applicant is driving a commercial motor vehicle as an employee of another. [1977 1st ex.s. c 356 § 3.]

Chapter 48.32

WASHINGTON INSURANCE GUARANTY ASSOCIATION ACT

Sections

- 48.32.140 Repealed.
48.32.145 Credit against premium tax for assessments paid pursuant to RCW 48.32.060(1)(c).

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

48.32.145 Credit against premium tax for assessments paid pursuant to RCW 48.32.060(1)(c). Every member insurer which during any calendar year shall have paid one or more assessments levied pursuant to RCW 48.32.060(1)(c) as now or hereafter amended shall be entitled to take, as a credit against any premium tax falling due under RCW 48.14.020, one-fifth of the aggregate amount of such aggregate assessments during such calendar year for each of the five consecutive calendar years beginning with the calendar year following the calendar year in which such assessments are paid: *Provided*, That whenever an assessment or uncredited portion thereof is or becomes less than one thousand dollars, the entire amount may be credited against the premium tax at the next time the premium tax is paid. [1977 1st ex.s. c 183 § 1; 1975-'76 2nd ex.s. c 109 § 11.]

Chapter 48.32A

WASHINGTON LIFE AND DISABILITY INSURANCE GUARANTY ASSOCIATION ACT

Sections

- 48.32A.090 Certificates of contribution—Allowance as asset—Offset against premium taxes.

48.32A.090 Certificates of contribution—Allowance as asset—Offset against premium taxes. (1) The association shall issue to each insurer paying an assessment under this chapter certificates of contribution, in appropriate form and terms as prescribed or approved by the commissioner, for the amounts so paid into the respective funds. All outstanding certificates against a particular fund shall be of equal dignity and priority without reference to amounts or dates of issue.

(2) An outstanding certificate of contribution shall be shown by the insurer in its financial statements as an admitted asset for such amount and period of time as the commissioner may approve: *Provided*, That unless a longer period has been allowed by the commissioner the insurer shall in any event at its option have the right to so show a certificate of contribution as an admitted asset at percentages of original face amount for calendar years as follows:

100% for the calendar year of issuance;

90% for the first calendar year after the year of issuance;

80% for the second calendar year after the year of issuance;

70% for the third calendar year after the year of issuance;

60% for the fourth calendar year after the year of issuance;

50% for the fifth calendar year after the year of issuance;

40% for the sixth calendar year after the year of issuance;

30% for the seventh calendar year after the year of issuance;

20% for the eighth calendar year after the year of issuance;

10% for the ninth calendar year after the year of issuance; and

0% for the tenth and subsequent calendar years after the year of issuance.

Notwithstanding the foregoing, if the value of a certificate of contribution is or becomes less than one thousand dollars, the entire amount may be written off by the insurer in that year.

(3) The insurer shall offset the amount written off by it in a calendar year under subsection (2) of this section against its premium tax liability to this state accrued with respect to business transacted in such year.

(4) Any sums recovered by the association representing sums which have theretofore been written off by contributing insurers and offset against premium taxes as provided in subsection (3) of this section, shall be paid by the association to the commissioner and by him deposited with the state treasurer for credit to the general fund of the state of Washington.

(5) No distribution to stockholders, if any, of a liquidating insurer shall be made unless and until the total amount of assessments levied by the association with respect to such insurer have been fully recovered by the association. [1977 1st ex.s. c 183 § 2; 1975 1st ex.s. c 133 § 1; 1971 ex.s. c 259 § 9.]

Chapter 48.34

CREDIT LIFE INSURANCE AND CREDIT ACCIDENT AND HEALTH INSURANCE

Sections

- 48.34.060 Life—Limitation on amount under group policy—Exceptions.

48.34.060 Life—Limitation on amount under group policy—Exceptions. The initial amount of credit life insurance under a group policy shall at no time exceed the amount owed by the debtor which is repayable in installments to the creditor, or twenty-five thousand dollars, whichever is less. Nor shall the amount repayable under the contract of indebtedness extend over a period in excess of ten years, except that in case of long term agricultural real estate mortgages or agricultural short term crop production loans, the amount of insurance on the life of the debtor shall at no time

exceed the amount owed by him to the creditor or fifty thousand dollars, whichever is less. [1977 c 61 § 2; 1967 ex.s. c 82 § 1; 1961 c 219 § 6.]

Chapter 48.36 FRATERNAL

Sections

48.36.050	Benefits.
48.36.090	Funds.
48.36.120	Organization.
48.36.230	Annual reports—Valuation of certificates.

48.36.050 Benefits. (1) Every society transacting business under this chapter shall provide for the payment of death benefits, and may provide for the payment of benefits in case of temporary or permanent physical disability, either as the result of disease, accident or old age: *Provided*, That the period of life at which the payment of benefits for disability on account of old age shall commence, shall not be under seventy years, and may provide for monuments or tombstones to the memory of the deceased members and for the payment of funeral benefits. Such society shall have the power to give a member, when permanently disabled or on attaining the age of seventy, all or such portion of the face value of his certificates as the laws of the society may provide: *Provided*, That nothing in this chapter contained shall be so construed as to prevent the issuing of benefit certificates for a term of years less than the whole of life which are payable upon the death or disability of the member occurring within the terms for which the benefit certificates may be issued. Such society shall, upon written application of the members, have the power to accept a part of the periodical contributions in cash, and charge the remainder, not exceeding one-half of the periodical contributions, against the certificate with interest payable or compounded annually at a rate not lower than four percent per annum: *Provided*, That this privilege shall not be granted except to societies which have readjusted or may hereafter readjust their rates of contribution and to contracts affected by such readjustment.

(2) Any society which shall show by the annual valuation hereinafter provided for that it is accumulating and maintaining the reserve necessary to enable it to do so, under a table of mortality not lower than the American Experience Table and four percent interest, or under tables of mortality and interest assumptions as are authorized for use by domestic life insurers, may grant to its members, extended and paid-up protection or such withdrawal equities as its constitution and laws may provide: *Provided*, That such grants shall in no case exceed in value the portion of the reserve to the credit of such members to whom they are made.

(3) Power and authority is hereby given to a society to divide its membership into separate classes, each class having a separate form of contract of similar or general plan and character in its purpose, and that the assets or mortuary collections made from the members of each

class respectively shall be carried and maintained separate for such class, and that the required reserve accumulation of such class, if the contract therefor provides for such fund, shall be set apart and held specifically and separately for the use and benefit of such particular class, and shall not thereafter be mingled with the assets or mortuary collections of any other class of the society. [1977 1st ex.s. c 96 § 1; 1947 c 79 § .32.05; Rem. Supp. 1947 § 45.32.05.]

48.36.090 Funds. (1) Any society may create, maintain, invest, disburse, and apply an emergency, surplus or other similar fund in accordance with its law. Unless otherwise provided in the contract, such funds shall be held, invested, and disbursed for the use and benefit of the society, and no member or beneficiary shall have or acquire individual rights therein or become entitled to any apportionment or the surrender of any part thereof, except as provided in RCW 48.36.050. The funds from which benefits shall be paid and the funds from which the expenses of the society shall be defrayed, shall be derived from periodical or other payments by the members of the society and accretions of said funds: *Provided*, That no society, domestic or foreign, shall hereafter be incorporated or admitted to transact business in this state, which does not provide for stated periodical contributions sufficient to provide for meeting the mortuary obligations contracted, when valued upon the basis of the National Fraternal Congress Table of Mortality as adopted by the National Fraternal Congress, August 23, 1899, or any higher standard with interest assumption not more than four percent per annum, or under tables of mortality and interest assumptions as are authorized for use by domestic life insurers, nor write or accept members for temporary or permanent disability benefits except upon tables based upon reliable experience, with an interest assumption not higher than four percent per annum or tables and interest assumptions as are authorized for use by domestic life insurers.

(2) Deferred payments or installments of claims shall be considered as fixed liabilities on the happening of the contingency upon which such payments or installments are thereafter to be paid. Such liability shall be the present value of such future payments or installments upon the rate of interest and mortality assumed by the society for valuation, and every society shall maintain a fund sufficient to meet such liability regardless of proposed future collections to meet any such liabilities. [1977 1st ex.s. c 96 § 2; 1947 c 79 § .32.09; Rem. Supp. 1947 § 45.32.09.]

48.36.120 Organization. Seven or more persons, citizens of the United States, and a majority of whom are citizens of this state, who desire to form a fraternal benefit society, as defined by this chapter, may make and sign, giving their addresses, and acknowledge before some officer competent to take acknowledgment of deeds, articles of incorporation, in which shall be stated:

First.—The proposed corporate name of the society, which shall not so closely resemble the name of any

society or insurance company already transacting business in this state as to mislead the public or to lead to confusion.

Second.—The purpose for which it is formed, which shall not include more liberal powers than are granted in this chapter: *Provided*, That any lawful social, intellectual, educational, charitable, benevolent, moral, or religious advantages may be set forth among the purposes of the society, and the mode in which its corporate powers are to be exercised.

Third.—The names, residences, and official titles of all the officers, trustees, directors, or other persons who are to have and exercise the general control and management of the affairs and funds of the society for the first year or until the ensuing election at which all such officers shall be elected by the supreme legislative or governing body, which election shall be held not later than one year from the date of issuance of the permanent certificate. Such articles of incorporation and duly certified copies of the constitution and laws, rules and regulations, and copies of all proposed forms of benefit certificates, applications therefor and circulars to be issued by such society, and a bond in the sum of five thousand dollars, with sureties approved by the commissioner, conditioned upon the return of the advanced payments, as provided in this section, to applicants, if the organization is not completed within one year, shall be filed with the commissioner, who may require such further information as he deems necessary, and if the purposes of the society conform to the requirements of this chapter, and all provisions of law have been complied with, the commissioner shall so certify and retain and record, or file, the articles of incorporation, and furnish the incorporators a preliminary certificate authorizing said society to solicit members as hereinafter provided.

Upon receipt of said certificate from the commissioner, said society may solicit members for the purpose of completing its organization and shall collect from each applicant the amount of not less than one regular monthly payment, in accordance with its table of rates as provided by its constitution and laws, and shall issue to each such applicant, a receipt for the amount so collected. But no such society shall incur any liability other than for such advanced payments, nor issue any benefit certificate, nor pay or allow, or offer or promise to pay or allow, to any person any death or disability benefit until actual bona fide applications for death benefit certificates have been secured upon at least five hundred lives for at least one thousand dollars each, and all such applicants for death benefits shall have been regularly examined by legally qualified practicing physicians, and certificates of such examinations have been duly filed and approved by the chief medical examiner of such society, nor until there shall be established ten subordinate lodges or branches into which said five hundred applicants have been initiated, nor until there has been submitted to the commissioner, under oath of the president and secretary, or corresponding officers of such society, a list of such applicants, giving their names, addresses, date examined, date approved, date initiated, name and number of the subordinate branch of which

each applicant is a member, amount of benefits to be granted, rate of stated periodical contributions which shall be sufficient to provide for meeting the mortuary obligation contracted, when valued for death benefits upon the basis of the National Fraternal Congress Table of Mortality, as adopted by the National Fraternal Congress, August 23, 1899, or any higher standard at the option of the society, or any standard authorized for use by domestic life insurers, and for disability benefits by tables based upon reliable experience and for combined death and permanent total disability benefits by tables based upon reliable experience, with an interest assumption not higher than four percent per annum, or tables and interest assumptions as are authorized for use by domestic life insurers, nor until it shall be shown to the commissioner by the sworn statement of the treasurer, or corresponding officer of such society, that at least five hundred applicants have each paid in cash at least one regular monthly payment as herein provided per one thousand dollars of indemnity to be effected, which payments in the aggregate shall amount to at least twenty-five hundred dollars, all of which shall be credited to the mortuary or disability fund on account of such applicants, and no part of which may be used for expenses.

Said advanced payments shall, during the period of organization, be held in trust, and, if the organization is not completed within one year as hereinafter provided, returned to said applicants.

The commissioner may make such examination and require such further information as he deems advisable, and upon presentation of satisfactory evidence that the society has complied with all the provisions of law, he shall issue to such society a certificate to that effect. Such certificate shall be prima facie evidence of the existence of such society at the date of such certificate. The commissioner shall cause a record of such certificate to be made and a certified copy of such record may be given in evidence with like effect as the original certificate.

No preliminary certificate granted under the provisions of this section shall be valid after one year from its date, or after such further period, not exceeding one year, as may be authorized by the commissioner, upon cause shown, unless the five hundred applicants herein required have been secured and the organization has been completed as herein provided, and the articles of incorporation and all proceedings thereunder shall become null and void in one year from the date of said preliminary certificate, or at the expiration of said extended period, unless such society shall have completed its organization and commenced business as herein provided. When any domestic society shall have discontinued business for the period of one year, or has less than four hundred members, its charter shall become null and void.

Every society shall have the power to make a constitution and bylaws for the government of the society, the admission of its members, the management of its affairs, and the fixing and readjusting of the rates of contribution of its members from time to time; and it shall have the power to change, alter, add to or amend such constitution and bylaws and shall have such other powers as

are necessary and incidental to carrying into effect the objects and purposes of the society. [1977 1st ex.s. c 96 § 3; 1947 c 79 § .32.12; Rem. Supp. 1947 § 45.32.12.]

48.36.230 Annual reports—Valuation of certificates. Every society transacting business in this state shall annually, on or before the fifteenth day of March, file with the commissioner in such form as he may require, a statement under oath of its president and secretary, or corresponding officers, of its condition and standing on the thirty-first day of December next preceding, and of its transactions for one year ending on that date, and also shall furnish such other information as the commissioner may deem necessary to a proper exhibit of its business and plan of working. The commissioner may at other times require any further statement he may deem necessary to be made relating to such society.

In addition to the annual report herein required, each society shall annually report to the commissioner in valuation of its certificates in force on the thirty-first day of December last preceding excluding those issued within the year for which the report is filed, in cases where the contributions for the first year in whole or in part are used for current mortality and expenses: *Provided*, That the first report of valuation shall be made as of December 31, 1931. Such report of valuation shall show, as contingent liabilities, the present midyear value of the promised benefits provided in the constitution and laws of such society under certificates then subject to valuation; and as contingent assets, the present midyear value of the future net contributions provided in the constitution and laws as the same are in practice actually collected. At the option of any society in lieu of the above, the valuation may show the net value of the certificates subject to valuation hereinbefore provided, and said net value, when computed in case of monthly contributions, may be the mean of the terminal values for the end of the preceding and of the current insurance years. Such valuation shall be certified by a competent accountant or actuary, or, at the request and expense of the society, verified by the actuary of the department of insurance of the home state of the society, and shall be filed with the commissioner within ninety days after the submission of the last preceding annual report. The legal minimum standard of valuation shall be according to tables of reliable experience and in such case a separation of the funds shall not be required.

The minimum standard of valuation for all certificates shall be either such tables and interest assumptions as are authorized for use by domestic life insurers or for all certificates issued on or after June 7, 1973 shall be four percent interest and the following tables:

(a) For certificates of life insurance, American men ultimate table of mortality, with Bowerman's or Davis' extension thereof, the commissioners 1941 standard industrial mortality table, the commissioners 1961 standard industrial mortality table, the commissioners 1941 standard ordinary mortality table, or the commissioners 1958 standard ordinary mortality table using an age not more than three years younger than the actual age of the insured for female risks;

(b) For annuity certificates, including life annuities provided or available under optional modes of settlement in such certificates, the 1937 standard annuity mortality table, annuity mortality table for 1949 ultimate, or the 1971 individual annuity mortality table, or any modification of these tables approved by the commissioner;

(c) For disability benefits issued in connection with life benefit certificate, Hunter's disability table or class III disability table (1926), modified to conform to the contractual waiting period, or the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries with due regard to the type of benefit, any tables of which for active lives shall be combined with a mortality table permitted for calculating the reserves on life insurance certificates;

(d) For accidental death benefits issued in connection with life benefit certificate, the intercompany double indemnity mortality table or the 1959 accidental death benefits table combined with a mortality table permitted for calculating the reserves for life insurance certificates; and

(e) For accident and sickness benefits, the society shall maintain an active life reserve which shall place a sound value on its liabilities under such certificates and which shall not be less, in the aggregate than the reserve required to be used by a domestic life insurer and, in no event, less than the pro rata gross unearned premium reserve for such certificates.

An annual report of such valuation and an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each beneficiary member of the society not later than June 1st of each year, or, in lieu thereof, such report of valuation and showing of the society's condition as thereby disclosed may be published in the society's official paper and the issue containing the same mailed to each beneficiary member of the society. The laws of such society shall provide that if the stated periodical contributions of its members, together with the admitted assets, are insufficient to mature its certificates in full, and to provide for the creation and maintenance of the funds required by its laws, additional, increased or extra rates of contribution shall be collected from the members to meet such deficiency; and such laws may provide that, upon the written application or consent of the member, his certificate may be charged with its proportion of any deficiency disclosed by valuation, with interest not exceeding five percent per annum. [1977 1st ex.s. c 96 § 4; 1973 c 79 § 1; 1947 c 79 § .32.23; Rem. Supp. 1947 § 45.32.23.]

Chapter 48.40 FUNERAL SERVICES

Sections	
48.40.002	Prearrangement funeral service contracts—Authorized—Definitions.
48.40.005	Prearrangement funeral service contracts—Trust funds.
48.40.007	Prearrangement funeral service contracts—Certificate of registration—Required.

48.40.012	Prearrangement funeral service contracts—Qualifications for certificates of registration.
48.40.015	Prearrangement funeral service contracts—Grounds for nonrenewal, revocation or suspension of certificate of registration.
48.40.017	Prearrangement funeral service contracts—Requirements to apply for original certificate of registration.
48.40.025	Renewal of certificates of registration—Fees—Amounts—Disposition.
48.40.035	Suspension, revocation or refusal to renew certificates of registration—Notice of intention—Effect of suspension, etc.—Notice.
48.40.045	Annual statement of financial condition—Filing—Form—Contents—Effect of failure to file.
48.40.055	Prearrangement funeral contract forms—Approval required—Grounds for disapproval.
48.40.065	Rules and regulations—Investigations—Examinations—Hearings.
48.40.075	Violations—Noncompliance—Penalty—Unfair practice—Chapter 63.14 RCW governs retail installment transactions.
48.40.900	Severability—1977 1st ex.s. c 163.

48.40.002 Prearrangement funeral service contracts—Authorized—Definitions. (1) Notwithstanding the provisions of RCW 48.40.080, a funeral establishment licensed pursuant to chapter 18.39 RCW may enter into prearrangement funeral service contracts, subject to the provisions of this chapter.

(2) Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this chapter:

(a) "Prearrangement funeral service contract" means any contract, other than a contract entered into by an insurance company, under which, for a specified consideration paid in advance in a lump sum or by installments, a funeral establishment promises, upon the death of a beneficiary named or implied in the contract, to furnish funeral merchandise or services.

(b) "Funeral merchandise or services" shall mean those services normally performed and merchandise normally provided by funeral establishments including the sale of burial supplies and equipment, but excluding the sale by a cemetery of lands or interests therein, services incidental thereto, markers, memorials, monuments, equipment, crypts, niches, or vaults.

(c) "Qualified public depository" means a depository defined by RCW 39.58.010, a credit union as governed by chapter 31.12 RCW, a mutual savings bank as governed by Title 32 RCW, a savings and loan association as governed by Title 33 RCW, or a federal credit union or a federal savings and loan association organized, operated, and governed by any act of congress, in which prearrangement funeral service contract funds are deposited by any funeral establishment. [1977 1st ex.s. c 163 § 1.]

48.40.005 Prearrangement funeral service contracts—Trust funds. (1) Any funeral establishment selling by prearrangement funeral service contract any funeral merchandise or services shall establish and maintain one or more prearrangement funeral service trust funds for the benefit of the beneficiary of the prearrangement funeral service contract.

(2) Fifteen percent of the cash purchase price of each prearrangement funeral service contract, excluding sales tax, may be retained by the funeral establishment. Deposits to the prearrangement funeral service trust fund shall be made not later than the twentieth day of the month following the receipt of each payment made on the last eighty-five percent of each prearrangement funeral service contract, excluding sales tax.

(3) All prearrangement funeral service trust funds shall be deposited in a qualified public depository. The account shall be designated as the prearrangement funeral service trust fund of the particular funeral establishment for the benefit of the beneficiaries named in the prearrangement funeral service contract.

(4) All interest, dividends, increases, or accretions of whatever nature earned by a trust fund shall be kept unimpaired and shall become a part of the trust fund, and adequate records shall be maintained to allocate the share thereof to each contract.

(5) A depository designated as the depository of a prearrangement funeral service trust fund shall permit withdrawal of all funds deposited under a prearrangement funeral service contract, plus accruals thereon, under the following circumstances and conditions:

(a) If the funeral establishment files a verified statement with the depository that the prearrangement funeral merchandise and services covered by the contract have been furnished and delivered in accordance therewith; or

(b) If the funeral establishment files a verified statement with the depository that the prearrangement funeral merchandise and services covered by the contract have been canceled in accordance with its terms.

(6) Any purchaser or beneficiary who has procured a prearrangement funeral service contract shall have the right to demand a refund of the entire amount paid on the contract, together with all interest, dividends, increases, or accretions to the funds.

(7) Prearrangement funeral service contracts shall automatically terminate if the funeral establishment goes out of business, becomes insolvent or bankrupt, makes an assignment for the benefit of creditors, or for any other reason is unable to fulfill the obligations under the contract. In such event, and upon demand by the purchaser or beneficiary of the prearrangement funeral service contract, the depository of the prearrangement funeral service contract funds shall refund to the purchaser or beneficiary all funds deposited under the said contract, unless otherwise ordered by a court of competent jurisdiction.

(8) Prearrangement funeral service trust funds shall not be used, directly or indirectly, for the benefit of the funeral establishment or any director, officer, agent, or employee of the funeral establishment including, but not limited to, any encumbrance, pledge, or other use of prearrangement funeral service trust funds as collateral or other security.

(9) Every prearrangement funeral service contract shall contain language which informs the purchaser of the prearrangement funeral service trust fund and the amount to be deposited in the trust fund, which may not

be less than eighty-five percent of the cash purchase price of the contract. [1977 1st ex.s. c 163 § 2.]

48.40.007 Prearrangement funeral service contracts—Certificate of registration—Required. No funeral establishment shall enter into prearrangement funeral service contracts in this state unless the funeral establishment has obtained a certificate of registration issued by the commissioner and such certificate is then in force. [1977 1st ex.s. c 163 § 3.]

48.40.012 Prearrangement funeral service contracts—Qualifications for certificates of registration. To qualify for and hold a certificate of registration a funeral establishment must:

- (1) Be licensed pursuant to chapter 18.39 RCW; and
- (2) Fully comply with and qualify according to the provisions of this chapter. [1977 1st ex.s. c 163 § 4.]

48.40.015 Prearrangement funeral service contracts—Grounds for nonrenewal, revocation or suspension of certificate of registration. The commissioner may refuse to renew or may revoke or suspend a funeral establishment's certificate of registration, if the funeral establishment:

- (1) Fails to comply with any provisions of this chapter or any proper order or regulation of the commissioner;
- (2) Is found by the commissioner to be in such condition that further execution of prearrangement contracts could be hazardous to purchasers or beneficiaries and the people of this state;
- (3) Refuses to be examined, or refuses to submit to examination or to produce its accounts, records and files for examination by the commissioner when required; or
- (4) Is found by the commissioner after investigation or receipt of reliable information to be managed by persons who are incompetent or untrustworthy or so lacking in managerial experience as to make the proposed or continued operation hazardous to purchasers, beneficiaries, or to the public. [1977 1st ex.s. c 163 § 5.]

48.40.017 Prearrangement funeral service contracts—Requirements to apply for original certificate of registration. To apply for an original certificate of registration, a funeral establishment must:

- (1) File with the commissioner its request showing:
 - (a) Its name, location, and organization date;
 - (b) The kinds of funeral business it proposes to transact;
 - (c) A statement of its financial condition, management, and affairs on a form satisfactory to or furnished by the commissioner; and
 - (d) Such other documents, stipulations, or information as the commissioner may reasonably require to evidence compliance with the provisions of this chapter.
- (2) Deposit with the commissioner the fees required by this chapter to be paid for filing the accompanying documents, and for the certificate of registration, if granted. [1977 1st ex.s. c 163 § 6.]

48.40.025 Renewal of certificates of registration—Fees—Amounts—Disposition. All certificates of registration issued pursuant to this chapter shall continue in force until suspended, revoked, or renewed. A certificate shall be subject to renewal annually on the first day of July upon application by the funeral establishment and payment of the required fees.

The commissioner shall collect in advance the following fees:

- (1) Certificate of registration:
 - (a) Issuance – thirty-five dollars;
 - (b) Renewal – fifteen dollars;
- (2) Annual statement of financial condition – ten dollars.

All fees so collected shall be remitted by the commissioner to the state treasurer not later than the first business day following receipt of such funds and the funds shall be credited to the general fund. [1977 1st ex.s. c 163 § 7.]

48.40.035 Suspension, revocation or refusal to renew certificates of registration—Notice of intention—Effect of suspension, etc.—Notice. The commissioner shall give a funeral establishment notice of his intention to suspend, revoke, or refuse to renew the establishment's certificate of registration not less than ten days before the order of suspension, revocation or refusal is to become effective.

No funeral establishment whose certificate of registration has been suspended, revoked, or refused shall subsequently be authorized to enter into prearrangement contracts unless the grounds for such suspension, revocation, or refusal in the opinion of the commissioner no longer exist and the funeral establishment is otherwise fully qualified.

Upon the suspension, revocation or refusal of a funeral establishment's certificate of registration, the commissioner shall give written notice of such action to the director of the department of motor vehicles. [1977 1st ex.s. c 163 § 8.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

48.40.045 Annual statement of financial condition—Filing—Form—Contents—Effect of failure to file. (1) Each authorized funeral establishment shall annually, before the first day of March, file with the commissioner a true and accurate statement of its financial condition, transactions, and affairs for the preceding calendar year. The statement shall be on such forms and shall contain such information as required by this chapter and by the commissioner.

(2) The commissioner shall suspend or revoke the certificate of registration of any funeral establishment which fails to file its annual statement when due or after any extension of time which the commissioner has, for good cause, granted. [1977 1st ex.s. c 163 § 9.]

48.40.055 Prearrangement funeral contract forms—Approval required—Grounds for disapproval. No prearrangement funeral contract forms shall be used without the prior approval of the commissioner.

The commissioner shall disapprove any such contract form, or withdraw prior approval when such form:

- (1) Violates or does not comply with this chapter;
- (2) Contains or incorporates by reference any inconsistent, ambiguous or misleading clauses, or exceptions and conditions which unreasonably or deceptively affect the merchandise or service purported to be provided in the general coverage of the contract;
- (3) Has any title, heading, or other part of its provisions which is misleading; or
- (4) Is being solicited by deceptive advertising. [1977 1st ex.s. c 163 § 10.]

48.40.065 Rules and regulations—Investigations—Examinations—Hearings. (1) The commissioner shall have the authority expressly conferred upon him by or reasonably implied from the provisions of this chapter.

(2) The commissioner may:

- (a) Make reasonable rules and regulations for effectuating any provision of this chapter in accordance with chapter 34.04 RCW;
- (b) Conduct investigations to determine whether any person has violated any provision of this chapter; and
- (c) Conduct examinations, investigations, and hearings, in addition to those specifically provided for, useful and proper for the efficient administration of any provision of this chapter. [1977 1st ex.s. c 163 § 11.]

48.40.075 Violations—Noncompliance—Penalty—Unfair practice—Chapter 63.14 RCW governs retail installment transactions. Any person who shall violate or fail to comply with, or aid or abet any person in the violation of, or failure to comply with any of the provisions of this chapter shall be guilty of a gross misdemeanor pursuant to chapter 9A.20 RCW. Any such violation shall constitute an unfair practice under chapters 19.86 and 48.30 RCW and conviction thereunder shall be grounds for license revocation under chapter 18.39 RCW. Retail installment transactions under this chapter shall be governed by chapter 63.14 RCW [1977 1st ex.s. c 163 § 12.]

48.40.900 Severability—1977 1st ex.s. c 163. 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. [1977 1st ex.s. c 163 § 14.]

Chapter 48.44

HEALTH CARE SERVICES

Sections

- 48.44.200 Individual health care service plan contracts—Coverage of dependent child not to terminate because of developmental disability or physical handicap.

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- 48.44.210 Group health care service plan contracts—Coverage of dependent child not to terminate because of developmental disability or physical handicap.

48.44.200 Individual health care service plan contracts—Coverage of dependent child not to terminate because of developmental disability or physical handicap.

An individual health care service plan contract, delivered or issued for delivery in this state more than one hundred twenty days after August 11, 1969, which provides that coverage of a dependent child shall terminate upon attainment of the limiting age for dependent children specified in the contract shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such child while the child is and continues to be both (1) incapable of self-sustaining employment by reason of developmental disability or physical handicap and (2) chiefly dependent upon the subscriber for support and maintenance, provided proof of such incapacity and dependency is furnished to the health care service plan corporation by the subscriber within thirty-one days of the child's attainment of the limiting age and subsequently as may be required by the corporation but not more frequently than annually after the two year period following the child's attainment of the limiting age. [1977 1st ex.s. c 80 § 33; 1969 ex.s. c 128 § 1.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

48.44.210 Group health care service plan contracts—Coverage of dependent child not to terminate because of developmental disability or physical handicap.

A group health care service plan contract, delivered or issued for delivery in this state more than one hundred twenty days after August 11, 1969, which provides that coverage of a dependent child of an employee or other member of the covered group shall terminate upon attainment of the limiting age for dependent children specified in the contract shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such child while the child is and continues to be both (1) incapable of self-sustaining employment by reason of developmental disability or physical handicap and (2) chiefly dependent upon the employee or member for support and maintenance, provided proof of such incapacity and dependency is furnished to the health care service plan corporation by the employee or member within thirty-one days of the child's attainment of the limiting age and subsequently as may be required by the corporation, but not more frequently than annually after the two year period following the child's attainment of the limiting age. [1977 1st ex.s. c 80 § 34; 1969 ex.s. c 128 § 2.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Chapter 48.48

STATE FIRE MARSHAL

Sections

- 48.48.110 Annual report.

48.48.110 Annual report. The state fire marshal shall submit annually a report to the governor of this state. The report shall contain a statement of his official acts pursuant to this chapter. [1977 c 75 § 71; 1947 c 79 § .33.11; Rem. Supp. 1947 § 45.33.11.]

Supp. 1941 § 7614-3. Formerly RCW 49.04.010 and 49.04.020.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Division of employment service created: RCW 50.08.020.

Vocational education: Chapter 28C.04 RCW.

Title 49 LABOR REGULATIONS

Chapters

49.04	Apprenticeship.
49.12	Industrial welfare.
49.46	Minimum wage act.
49.60	Law against discrimination.

Chapter 49.04 APPRENTICESHIP

Sections

49.04.010	Apprenticeship council created—Composition— Terms—Compensation—Duties.
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49.04.010 Apprenticeship council created— Composition—Terms—Compensation—Duties.

The director of labor and industries shall appoint an apprenticeship council, composed of three representatives each from employer and employee organizations, respectively. The terms of office of the members of the apprenticeship council first appointed by the director of labor and industries shall be as follows: One representative each of employers and employees shall be appointed for one year, two years, and three years, respectively. Thereafter, each member shall be appointed for a term of three years. Each member shall hold office until his successor is appointed and has qualified and any vacancy shall be filled by appointment for the unexpired portion of the term. The state official who has been designated by the state board for vocational education as being in charge of trade and industrial education and the state official who has immediate charge of the state public employment service shall ex officio be members of said council, without vote. Each member of the council, not otherwise compensated by public moneys, shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended and shall be paid not more than twenty-five dollars for each day spent in attendance at meetings of the council. The apprenticeship council with the consent of employee and employer groups shall: (1) Establish standards for apprenticeship agreements in conformity with the provisions of this chapter; (2) issue such rules and regulations as may be necessary to carry out the intent and purposes of this chapter; and (3) perform such other duties as are hereinafter imposed. Not less than once a year the apprenticeship council shall make a report to the director of labor and industries on of its activities and findings which shall be available to the public. [1977 c 75 § 72; 1975-'76 2nd ex.s. c 34 § 143; 1967 c 6 § 1; 1961 c 114 § 1; 1941 c 231 § 1; Rem.

Chapter 49.12 INDUSTRIAL WELFARE

Sections

49.12.110	Exceptions to minimum scale—Special certificate or permit.
49.12.180	Annual report.

49.12.110 Exceptions to minimum scale—Special certificate or permit. For any occupation in which a minimum wage has been established, the committee through its secretary may issue to an employer, a special certificate or permit for an employee who is physically or mentally handicapped to such a degree that he or she is unable to obtain employment in the competitive labor market, or to a trainee or learner not otherwise subject to the jurisdiction of the apprenticeship council, a special certificate or permit authorizing the employment of such employee for a wage less than the legal minimum wage; and the committee shall fix the minimum wage for said person, such special certificate or permit to be issued only in such cases as the committee may decide the same is applied for in good faith and that such certificate or permit shall be in force for such length of time as the said committee shall decide and determine is proper. [1977 1st ex.s. c 80 § 35; 1973 2nd ex.s. c 16 § 13; 1913 c 174 § 13; RRS § 7632.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

49.12.180 Annual report. The committee shall report annually to the governor on its investigations and proceedings. [1977 c 75 § 73; 1913 c 174 § 20; RRS § 7640.]

Chapter 49.46 MINIMUM WAGE ACT

Sections

49.46.010	Definitions.
49.46.065	Individual volunteering labor to state or local governmental agency—Amount reimbursed for expenses or received as nominal compensation not deemed salary for rendering services or affecting public retirement rights.
49.46.130	Minimum rate of compensation for employment in excess of forty hour work week—Exceptions (as amended by 1977 1st ex.s. c 4).
49.46.130	Minimum rate of compensation for employment in excess of forty hour work week—Exceptions (as amended by 1977 1st ex.s. c 74).

49.46.010 Definitions. As used in this chapter:
(1) "Director" means the director of labor and industries;

(2) "Wage" means compensation due to an employee by reason of his employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by regulations of the director under *RCW 49.46.050;

(3) "Employ" includes to suffer or to permit to work;

(4) "Employer" includes any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee;

(5) "Employee" includes any individual employed by an employer but shall not include:

(a) Any individual employed (i) on a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment; or (ii) in packing, packaging, grading, storing or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; and the exclusions from the term "employee" provided in this item shall not be deemed applicable with respect to commercial canning, commercial freezing, or any other commercial processing, or with respect to services performed in connection with the cultivation, raising, harvesting, and processing of oysters or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption;

(b) Any individual employed in domestic service in or about a private home;

(c) Any individual employed in a bona fide executive, administrative, or professional capacity or in the capacity of outside salesman (as such terms are defined and delimited by regulations of the director: *Provided however*, That such terms shall be defined and delimited by the state personnel board pursuant to chapter 41.06 RCW and the higher education personnel board pursuant to chapter 28B.16 RCW for employees employed under their respective jurisdictions);

(d) Any individual engaged in the activities of an educational, charitable, religious, state or local governmental body or agency or nonprofit organization where the employer–employee relationship does not in fact exist or where the services are rendered to such organizations gratuitously: *Provided*, That if such individual receives reimbursement in lieu of compensation for normally incurred out-of-pocket expenses or receives a nominal amount of compensation per unit of voluntary service rendered, an employer–employee relationship is deemed not to exist for the purpose of this section or for purposes of membership or qualification in any state, local government or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(e) Any individual employed full time by any state or local governmental body or agency who provides voluntary services but only with regard to the provision of such voluntary services: *Provided*, That such voluntary services and any compensation therefor shall not affect or add to qualification, entitlement or benefit rights under any state, local government or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(f) Any newspaper vendor or carrier;

(g) Any carrier subject to regulation by Part 1 of the Interstate Commerce Act;

(h) Any individual engaged in forest protection and fire prevention activities;

(i) Any individual employed by any charitable institution charged with child care responsibilities engaged primarily in the development of character or citizenship or promoting health or physical fitness or providing or sponsoring recreational opportunities or facilities for young people or members of the armed forces of the United States;

(j) Any individual whose duties require that he reside or sleep at the place of his employment or who otherwise spends a substantial portion of his work time subject to call, and not engaged in the performance of active duties;

(k) Any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution;

(l) Any individual who holds a public elective or appointive office of the state, any county, city, town, municipal corporation or quasi municipal corporation, political subdivision, or any instrumentality thereof, or any employee of the state legislature;

(m) All vessel operating crews of the Washington state ferries operated by the state highway commission;

(n) Any individual employed as a seaman on a vessel other than an American vessel.

(6) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed. [1977 1st ex.s. c 69 § 1; 1975 1st ex.s. c 289 § 1; 1974 ex.s. c 107 § 1; 1961 ex.s. c 18 § 2; 1959 c 294 § 1.]

Reviser's note: *(1) "RCW 49.46.050" referred to in subsection (2) was repealed by 1961 ex.s. c 18 § 7. See RCW 49.46.080.

(2) Powers, duties, and functions of state highway commission transferred to department of transportation; see RCW 47.01.031.

49.46.065 Individual volunteering labor to state or local governmental agency—Amount reimbursed for expenses or received as nominal compensation not deemed salary for rendering services or affecting public retirement rights. When an individual volunteers his or her labor to a state or local governmental body or agency and receives pursuant to a statute or policy or an ordinance or resolution adopted by or applicable to the state or local governmental body or agency reimbursement in lieu of compensation at a nominal rate for normally incurred expenses or receives a nominal amount of compensation per unit of voluntary service rendered such reimbursement or compensation shall not be deemed a

salary for the rendering of services or for purposes of granting, affecting or adding to any qualification, entitlement or benefit rights under any state, local government or publicly supported retirement system other than that provided under chapter 41.24 RCW. [1977 1st ex.s. c 69 § 2.]

49.46.130 Minimum rate of compensation for employment in excess of forty hour work week—Exceptions (as amended by 1977 1st ex.s. c 4). (1) No employer shall employ any of his employees for a work week longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed, except that the provisions of this subsection (1) shall not apply to any person exempted pursuant to RCW 49.46.010(5) as now or hereafter amended and the provision of this subsection shall not apply to employees who request compensating time off in lieu of overtime pay nor to any individual employed as a seaman whether or not the seaman is employed on a vessel other than an American vessel, nor to seasonal employees who are employed at concessions and recreational establishments at agricultural fairs, including those seasonal employees employed by agricultural fairs, within the state provided that the period of employment for any seasonal employee at any or all agricultural fairs does not exceed fourteen working days a year.

(2) No public agency shall be deemed to have violated subsection (1) of this section with respect to the employment of any employee in fire protection activities or any employee in law enforcement activities (including security personnel in correctional institutions) if: (a) In a work period of twenty-eight consecutive days the employee receives for tours of duty which in the aggregate exceed two hundred and forty hours; or (b) in the case of such an employee to whom a work period of at least seven but less than twenty-eight days applies, in his work period the employee receives for tours of duty which in the aggregate exceed a number of hours which bears the same ratio to the number of consecutive days in his work period as two hundred forty hours bears to twenty-eight days; compensation at a rate not less than one and one-half times the regular rate at which he is employed: *Provided*, That this section shall not apply to any individual employed (i) on a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment; or (ii) in packing, packaging, grading, storing or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; or (iii) commercial canning, commercial freezing, or any other commercial processing, or with respect to services performed in connection with the cultivation, raising, harvesting, and processing of oysters or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption: *Provided further*, That in any industry in which federal law provides for an overtime payment based on a work week other than forty hours then provisions of this section shall not apply; however the provisions of the federal law regarding overtime payment based on a work week other than forty hours shall nevertheless apply to employees covered by this section without regard to the existence of actual federal jurisdiction over the industrial activity of the particular employer within this state: *Provided further*, That "industry" as that term is used in this section shall mean a trade, business, industry, or other activity, or branch, or group thereof, in which individuals are gainfully employed (section 3(h) of the Fair Labor Standards Act of 1938, as amended (Public Law 93-259). [1977 1st ex.s. c 4 § 1; 1975 1st ex.s. c 289 § 3.]

49.46.130 Minimum rate of compensation for employment in excess of forty hour work week—Exceptions (as amended by 1977 1st ex.s. c 74). (1) No employer shall employ any of his employees for a work week longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed, except that the provisions of this subsection (1) shall not apply to any person exempted pursuant to RCW 49.46.010(5) as now or hereafter amended and the provision of this subsection shall not apply to employees who request compensating time off in lieu of

overtime pay nor to any individual employed as a seaman whether or not the seaman is employed on a vessel nor to any individual employed as a motion picture projectionist if that employee is covered by a contract or collective bargaining agreement which regulates hours of work and overtime pay.

(2) No public agency shall be deemed to have violated subsection (1) of this section with respect to the employment of any employee in fire protection activities or any employee in law enforcement activities (including security personnel in correctional institutions) if: (a) In a work period of twenty-eight consecutive days the employee receives for tours of duty which in the aggregate exceed two hundred and forty hours; or (b) in the case of such an employee to whom a work period of at least seven but less than twenty-eight days applies, in his work period the employee receives for tours of duty which in the aggregate exceed a number of hours which bears the same ratio to the number of consecutive days in his work period as two hundred forty hours bears to twenty-eight days; compensation at a rate not less than one and one-half times the regular rate at which he is employed: *Provided*, That this section shall not apply to any individual employed (i) on a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment; or (ii) in packing, packaging, grading, storing or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; or (iii) commercial canning, commercial freezing, or any other commercial processing, or with respect to services performed in connection with the cultivation, raising, harvesting, and processing of oysters or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption: *Provided further*, That in any industry in which federal law provides for an overtime payment based on a work week other than forty hours then provisions of this section shall not apply; however the provisions of the federal law regarding overtime payment based on a work week other than forty hours shall nevertheless apply to employees covered by this section without regard to the existence of actual federal jurisdiction over the industrial activity of the particular employer within this state: *Provided further*, That "industry" as that term is used in this section shall mean a trade, business, industry, or other activity, or branch, or group thereof, in which individuals are gainfully employed (Section 3(h) of the Fair Labor Standards Act of 1938, as amended (Public Law 93-259). [1977 1st ex.s. c 74 § 1; 1975 1st ex.s. c 289 § 3.]

Reviser's note: RCW 49.46.130 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Chapter 49.60

LAW AGAINST DISCRIMINATION

Sections

- 49.60.030 Freedom from discrimination—Declaration of civil rights.
- 49.60.100 Reports of board.
- 49.60.175 Unfair practices of financial institutions.
- 49.60.250 Hearing of complaint by tribunal—Order.

49.60.030 Freedom from discrimination—Declaration of civil rights. (1) The right to be free from discrimination because of race, creed, color, national origin, sex, or the presence of any sensory, mental, or physical handicap is recognized as and declared to be a civil right. This right shall include, but not be limited to:

(a) The right to obtain and hold employment without discrimination;

(b) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of

any place of public resort, accommodation, assemblage, or amusement;

(c) The right to engage in real estate transactions without discrimination;

(d) The right to engage in credit transactions without discrimination;

(e) The right to engage in insurance transactions without discrimination: *Provided however*, That different insurance rates may be continued and/or applied on the basis of sex when bona fide statistical differences in risk or exposure are substantiated; and

(f) The right to engage in commerce free from any discriminatory boycotts or blacklists. Discriminatory boycotts or blacklists for purposes of this section shall be defined as the formation or execution of any express or implied agreement, understanding, policy or contractual arrangement for economic benefit between any persons which is not specifically authorized by the laws of the United States and which is required or imposed, either directly or indirectly, overtly or covertly, by a foreign government or foreign person in order to restrict, condition, prohibit, or interfere with or in order to exclude any person or persons from any business relationship on the basis of race, color, creed, religion, sex, national origin or lawful business relationship: *Provided however*, That nothing herein contained shall prohibit the use of boycotts as authorized by law pertaining to labor disputes and unfair labor practices.

(2) Any person deeming himself injured by any act in violation of this chapter shall have a civil action in a court of competent jurisdiction to enjoin further violations, to recover the actual damages sustained by him, or both, together with the cost of suit including a reasonable attorney's fees or any other remedy authorized by this chapter or the United States Civil Rights Act of 1964; and

(3) Notwithstanding any other provisions of this chapter, any act prohibited by this chapter related to sex discrimination or discriminatory boycotts or blacklists which is committed in the course of trade or commerce in the state of Washington as defined in the Consumer Protection Act, chapter 19.86 RCW, shall be deemed an unfair practice within the meaning of RCW 19.86.020 and 19.86.030 and subject to all the provisions of chapter 19.86 RCW as now or hereafter amended. [1977 1st ex.s. c 192 § 1; 1974 ex.s. c 32 § 1; 1973 1st ex.s. c 214 § 3; 1973 c 141 § 3; 1969 ex.s. c 167 § 2; 1957 c 37 § 3; 1949 c 183 § 2; Rem. Supp. 1949 § 7614-21.]

Severability—1969 ex.s. c 167: See note following RCW 49.60.010.

Severability—1957 c 37: See note following RCW 49.60.010.

Severability—1949 c 183: See note following RCW 49.60.010.

49.60.100 Reports of board. The board, at the close of each fiscal year, shall report to the governor, describing the investigations, proceedings, and hearings it has conducted and their outcome, the decisions it has rendered, the recommendations it has issued, and the other work performed by it, and shall make such recommendations for further legislation as may appear desirable. The board may present its reports to the legislature; the board's reports shall be made available upon request.

[1977 c 75 § 74; 1955 c 270 § 7. Prior: 1949 c 183 § 4, part; Rem. Supp. 1949 § 7614-23, part.]

49.60.175 Unfair practices of financial institutions.

It shall be an unfair practice to use the sex, race, creed, color, national origin, or marital status of any person concerning an application for credit in any credit transaction to determine the credit worthiness of an applicant. [1977 1st ex.s. c 301 § 14; 1973 c 141 § 9; 1959 c 68 § 1.]

Fairness in lending act: RCW 30.04.500-30.04.515.

Financial institutions disclosure act: Chapter 19.106 RCW.

49.60.250 Hearing of complaint by tribunal—

Order. In case of failure to reach an agreement for the elimination of such unfair practice, and upon the entry of findings to that effect, the entire file, including the complaint and any and all findings made, shall be certified to the chairman of the board. The chairman of the board shall thereupon appoint a hearing tribunal of three persons, who shall be members of the board or a panel of hearing examiners, acting in the name of the board, to hear the complaint and shall cause to be issued and served in the name of the board a written notice, together with a copy of the complaint, as the same may have been amended, requiring the respondent to answer the charges of the complaint at a hearing before such tribunal, at a time and place to be specified in such notice.

The place of any such hearing may be the office of the board or another place designated by it. The case in support of the complaint shall be presented at the hearing by counsel for the board: *Provided*, That the complainant may retain independent counsel and submit testimony and be fully heard. No member or employee of the board who previously made the investigation or caused the notice to be issued shall participate in the hearing except as a witness, nor shall he participate in the deliberations of the tribunal in such case. Any endeavors or negotiations for conciliation shall not be received in evidence.

The respondent may file a written answer to the complaint and appear at the hearing in person or otherwise, with or without counsel, and submit testimony and be fully heard.

The tribunal conducting any hearing may permit reasonable amendment to any complaint or answer. Testimony taken at the hearing shall be under oath and recorded.

If, upon all the evidence, the tribunal finds that the respondent has engaged in any unfair practice it shall state its findings of fact and shall issue and file with the board and cause to be served on such respondent an order requiring such respondent to cease and desist from such unfair practice and to take such affirmative action, including, (but not limited to) hiring, reinstatement or upgrading of employees, with or without back pay, an admission or restoration to full membership rights in any respondent organization, or to take such other action as, in the judgment of the tribunal, will effectuate the purposes of this chapter, and including a requirement for report of the matter on compliance.

If, upon all the evidence, the tribunal finds that the respondent has not engaged in any alleged unfair practice, it shall state its findings of fact and shall similarly issue and file an order dismissing the complaint.

The board shall establish rules of practice to govern, expedite and effectuate the foregoing procedure. [1957 c 37 § 18; 1955 c 270 § 17. Prior: 1949 c 183 § 8, part; Rem. Supp. 1949 § 7614-27, part.]

Reviser's note: RCW 49.60.250 is included in this supplement to supply a comma following "hearing examiners" in the first paragraph. The comma appears in 1957 c 37 § 18 but was inadvertently omitted from the code.

Title 50

UNEMPLOYMENT COMPENSATION

Chapters

50.04	Definitions.
50.12	Administration.
50.13	Records and information—Privacy and confidentiality.
50.16	Funds.
50.20	Benefits and claims.
50.22	Extended benefits.
50.24	Contributions by employers.
50.44	Special coverage provisions.
50.48	Youth service corps act of 1977.
50.98	Construction.

Chapter 50.04 DEFINITIONS

Sections

50.04.030	Benefit year.
50.04.090	Employing unit.
50.04.116	Employment—Out-of-state service, when included—"American employer" defined.
50.04.150	Employment—Agricultural labor.
50.04.155	Services performed in agricultural labor for farm operator or crew leader.
50.04.160	Employment—Domestic service.
50.04.200	Repealed. (Effective January 1, 1978.)
50.04.205	Services performed by aliens.
50.04.250	Repealed.
50.04.260	Repealed.
50.04.270	Employment—Casual labor.
50.04.300	State.
50.04.355	Wages, remuneration—Average annual wage—Average weekly wage—Average annual wage for contributions purposes.

50.04.030 Benefit year. "Benefit year" with respect to each individual, means the fifty-two consecutive week period beginning with the first day of the calendar week in which the individual files an application for an initial determination and thereafter the fifty-two consecutive week period beginning with the first day of the calendar week in which the individual next files an application for an initial determination after the expiration of the individual's last preceding benefit year: *Provided, however*, That the foregoing limitation shall not be deemed to preclude the establishment of a new benefit year under

the laws of another state pursuant to any agreement providing for the interstate combining of employment and wages and the interstate payment of benefits nor shall this limitation be deemed to preclude the commissioner from backdating an initial application at the request of the claimant either for the convenience of the department of employment security or for any other reason deemed by the commissioner to be good cause.

An individual's benefit year shall be extended to be fifty-three weeks when at the expiration of fifty-two weeks the establishment of a new benefit year would result in the use of a quarter of wages in the new base year that had been included in the individual's prior base year.

No benefit year will be established unless it is determined that the individual earned wages in "employment" in not less than six hundred eighty hours of the individual's base year: *Provided, however*, That a benefit year cannot be established if the base year wages include wages earned prior to the establishment of a prior benefit year unless the individual earned wages in "employment" during the last two quarters of the new base year of not less than six times the weekly benefit amount computed for the individual's new benefit year.

If the wages of an individual are not based upon a fixed duration of time or if the individual's wages are paid at irregular intervals or in such manner as not to extend regularly over the period of employment, the wages for any week shall be determined in such manner as the commissioner may by regulation prescribe. Such regulation shall, so far as possible, secure results reasonably similar to those which would prevail if the individual were paid his or her wages at regular intervals. [1977 1st ex.s. c 33 § 1; 1973 c 73 § 1; 1970 ex.s. c 2 § 2; 1949 c 214 § 1; 1945 c 35 § 4; Rem. Supp. 1949 § 9998-143. Prior: 1943 c 127 § 13; 1939 c 214 § 19; 1937 c 162 § 19.]

Effective dates—Construction—1977 1st ex.s. c 33: "The provisions of this 1977 amendatory act are 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 ninety days after adjournment sine die of the 1977 1st Extraordinary Session (forty-fifth legislature) of the Washington State Legislature: *Provided*, That the first paragraph of section 1 of this 1977 amendatory act shall take effect immediately and the remaining portion of section 1 of this 1977 amendatory act and all of section 2 of this 1977 amendatory act shall take effect commencing with benefit years beginning on and after October 1, 1978; section 7 of this 1977 amendatory act shall take effect commencing with benefit years beginning on and after July 3, 1977." [1977 1st ex.s. c 33 § 11.]

Reviser's note: The various sections of this 1977 amendatory act [1977 1st ex.s. c 33] referred to in the above section are codified as follows: Section 1 as RCW 50.04.030; section 2 as RCW 50.04.355; section 3 as RCW 50.12.070; section 4 as RCW 50.20.050; section 5 as RCW 50.20.060; section 6 as RCW 50.20.100; section 7 as RCW 50.20.120; section 8 as RCW 50.20.095.

Effective dates—1973 c 73: "Sections 7, 8, 10, 11, and 12 of this 1973 amendatory act are 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. Sections 1, 2, 3, 4, 5, 6, and 9 of this 1973 amendatory act shall take effect on July 1, 1973." [1973 c 73 § 13.]

Reviser's note: The effective date of sections 7, 8, 10, 11, and 12 was March 8, 1973. The effective date of sections 1, 2, 3, 4, 6 and 9 was July 1, 1973. Section 5 referred to above was vetoed.

Effective date—1970 ex.s. c 2: See note following RCW 50.04.020.

50.04.090 Employing unit. "Employing unit" means any individual or any type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1937, had in its employ or in its "employment" one or more individuals performing services within this state. The state and its political subdivisions shall be deemed employing units as to any transactions occurring on or after September 21, 1977 which would render an employing unit liable for contributions under RCW 50.24.130. [1977 1st ex.s. c 73 § 1; 1947 c 215 § 2; 1945 c 35 § 10; Rem. Supp. 1947 § 9998-149. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 19; 1937 c 162 § 19.]

50.04.116 Employment—Out-of-state service, when included—"American employer" defined. The term "employment" shall include the service of an individual who is a citizen of the United States, performed outside the United States (except in Canada, and in the case of the Virgin Islands after December 31, 1971 and prior to January 1 of the year following the year in which the United States secretary of labor approves the unemployment compensation law of the Virgin Islands under section 3304(a) of the Internal Revenue Code of 1954) in the employ of an American employer (other than service which is deemed "employment" under the provisions of RCW 50.04.110 or 50.04.120 or the parallel provisions of another state's law), if:

- (1) The employer's principal place of business in the United States is located in this state; or
- (2) The employer has no place of business in the United States but:
 - (a) The employer is an individual who is a resident of this state; or
 - (b) The employer is a corporation which is organized under the laws of this state; or
 - (c) The employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or
- (3) None of the criteria in subsections (1) and (2) of this section is met but the employer has elected coverage in this state, or the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the laws of this state.
- (4) An "American employer", for the purposes of this section, means a person who is:
 - (a) An individual who is a resident of the United States; or
 - (b) A partnership if two-thirds or more of the partners are residents of the United States; or
 - (c) A trust, if all of the trustees are residents of the United States; or
 - (d) A corporation organized under the laws of the United States or of any state. [1977 1st ex.s. c 292 § 1; 1971 c 3 § 7.]

Effective dates—1977 1st ex.s. c 292: "This 1977 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 sections 6, 12, 14, 15, 16, and 18 of this 1977 amendatory act shall take effect on January 1, 1978." [1977 1st ex.s. c 292 § 28.]

Reviser's note: The various sections of this 1977 amendatory act [1977 1st ex.s. c 292] referred to in the above section are codified as follows: Section 6 as RCW 50.20.113; section 12 as RCW 50.24.160; section 14 as RCW 50.44.030; section 15 as RCW 50.44.035; section 16 as RCW 50.44.037; and section 18 as RCW 50.44.050. For codification of all sections of 1977 1st ex.s. c 292, see note following RCW 50.98.100.

Construction—Compliance with federal act—1971 c 3: See RCW 50.44.080.

50.04.150 Employment—Agricultural labor. The term "employment" shall not include service performed in agricultural labor except as otherwise provided in RCW 50.04.155.

Agricultural labor is defined as services performed:

(1) On a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wild life, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment; or

(2) In packing, packaging, grading, storing, or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations. The exclusions from the term "employment" provided in this paragraph shall not be deemed to be applicable with respect to commercial packing houses, commercial storage establishments, commercial canning, commercial freezing, or any other commercial processing or with respect to services performed in connection with the cultivation, raising, harvesting and processing of oysters or raising and harvesting of mushrooms or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption. [1977 1st ex.s. c 292 § 2; 1957 c 264 § 1; 1947 c 215 § 3; 1945 c 35 § 16; Rem. Supp. 1945 § 9998-155. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

50.04.155 Services performed in agricultural labor for farm operator or crew leader. (1) Service performed in agricultural labor on and after January 1, 1978, for a farm operator or crew leader will be deemed services in employment if the farm operator or crew leader:

(a) Paid twenty thousand dollars or more as remuneration to individuals employed in agricultural labor during any calendar quarter in the current or preceding calendar year; or

(b) Employed ten or more individuals in agricultural labor for some portion of the day in each of twenty different calendar weeks in either the current or preceding

calendar year regardless of whether they were employed at the same moment of time or whether or not the weeks were consecutive.

(2) A farm operator is the owner or tenant of the farmlands who stands to gain or lose economically from the operations of the farm. Employment will be considered employment by the farm operator unless it is established to the satisfaction of the commissioner that the services were performed in the employ of a crew leader. The risk of nonpersuasion is upon the farm operator. The operator will nonetheless be liable for contributions under RCW 50.24.130 even though services performed on the operator's farmlands would not be sufficient to bring the services under the term employment if services performed on the operator's land in the employ of a crew leader would be covered and the crew leader has failed to pay contributions on the services. For the purposes of the preceding sentence and RCW 50.24.130, all moneys paid or payable to the crew leader by the farm operator shall be deemed paid for services unless there is a written contract clearly specifying the amounts of money to be attributed to items other than services of the crew leader or the crew leader's employees.

(3) For the purposes of this section, a crew leader is a person who furnishes individuals to perform services in agricultural labor for the benefit of any other person, who pays for the services performed in agricultural labor (either on his or her own behalf or on behalf of the other person), and who has not made a written agreement making himself or herself an employee of the other person: *Provided*, That no person shall be deemed a crew leader unless he or she is established independently of the person for whom the services are performed and either has a valid certificate of registration under the farm labor contractor registration act of 1963 or substantially all the members of his or her crew operate or maintain tractors, mechanized harvesting or crop dusting equipment, or any other mechanized equipment which is provided by the crew leader. [1977 1st ex.s. c 292 § 3.]

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

50.04.160 Employment—Domestic service. Services performed in domestic service in a private home, local college club, or local chapter of a college fraternity or sorority shall not be considered services in employment unless the services are performed after December 31, 1977, for a person who paid remuneration of one thousand dollars or more to individuals employed in this domestic service in any calendar quarter in the current or the preceding calendar year. The terms local college club and local chapter of a college fraternity or sorority shall not be deemed to include alumni clubs or chapters. [1977 1st ex.s. c 292 § 4; 1947 c 215 § 4; 1945 c 35 § 17; Rem. Supp. 1947 § 9998–156. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

50.04.200 Repealed. (Effective January 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

50.04.205 Services performed by aliens. Services performed by aliens legally or illegally admitted to the United States shall be considered services in employment subject to the payment of contributions to the extent that services by citizens are covered. [1977 1st ex.s. c 292 § 5.]

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

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

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

50.04.270 Employment—Casual labor. The term "employment" shall not include casual labor not in the course of the employer's trade or business (labor which does not promote or advance the trade or business of the employer). Temporary labor in the usual course of an employer's trade or business or domestic services as defined in RCW 50.04.160 shall not be deemed to be casual labor. [1977 1st ex.s. c 292 § 7; 1945 c 35 § 28; Rem. Supp. 1945 § 9998–166. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

50.04.300 State. "State" includes, in addition to the states of the United States of America, the District of Columbia, the Virgin Islands, and the Commonwealth of Puerto Rico. [1977 1st ex.s. c 292 § 8; 1971 c 3 § 10; 1945 c 35 § 31; Rem. Supp. 1945 § 9998–169. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

Construction—Compliance with federal act—1971 c 3: See RCW 50.44.080.

50.04.355 Wages, remuneration—Average annual wage—Average weekly wage—Average annual wage for contributions purposes. On or before the fifteenth day of June of each year an "average annual wage", an "average weekly wage", and an "average annual wage for contributions purposes" shall be computed from information for the preceding calendar year including corrections thereof reported within three months after the close of that year by all employers as defined in RCW 50.04.080. The "average annual wage" is the quotient derived by dividing total remuneration reported by all employers by the average number of workers reported for all months and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar. The "average annual wage" thus obtained shall be divided by fifty-two and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar to determine the

"average weekly wage". The "average annual wage" for contribution purposes is the quotient derived by dividing total remuneration reported by all employers subject to contributions by the average number of workers reported for all months by these same employers and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar. [1977 1st ex.s. c 33 § 2; 1975 1st ex.s. c 228 § 1; 1973 c 73 § 3; 1970 ex.s. c 2 § 6.]

Effective dates—Construction—1977 1st ex.s. c 33: See notes following RCW 50.04.030.

Effective date—1975 1st ex.s. c 228: "All sections of this 1975 amendatory act are 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 the first Sunday following signature by the governor." [1975 1st ex.s. c 228 § 19.]

Effective date—1973 c 73: See note following RCW 50.04.030.

Effective date—1970 ex.s. c 2: See note following RCW 50.04.020.

Chapter 50.12 ADMINISTRATION

Sections

50.12.010	Commissioner's duties and powers.
50.12.050	Reciprocal benefit arrangements.
50.12.070	Employing unit records and reports.
50.12.110	Repealed.
50.12.160	Publication of title, rules and regulations, etc.
50.12.210	Employment services for handicapped.

50.12.010 Commissioner's duties and powers. The commissioner shall administer this title. He shall have the power and authority to adopt, amend, or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as he deems necessary or suitable to that end. Such rules and regulations shall be effective upon publication and in the manner, not inconsistent with the provisions of this title, which the commissioner shall prescribe. The commissioner, in accordance with the provisions of this title, shall determine the organization and methods of procedure of the divisions referred to in this title, and shall have an official seal which shall be judicially noticed. The commissioner shall submit to the governor a report covering the administration and operation of this title during the preceding fiscal year, July 1 through June 30, and shall make such recommendations for amendments to this title as he deems proper. Such report shall include a balance sheet of the moneys in the fund in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserve shall be set up by the commissioner in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period. Whenever the commissioner believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, he shall promptly so inform the governor and legislature and make recommendations with respect thereto. [1977

c 75 § 75; 1955 c 286 § 1; 1949 c 214 § 7; 1945 c 35 § 40; Rem. Supp. 1949 § 9998-178. Prior: 1943 c 127 § 8; 1941 c 253 § 8; 1939 c 12 § 2.]

50.12.050 Reciprocal benefit arrangements. As used in this section the terms "other state" and "another state" shall be deemed to include any state or territory of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any foreign government and, where applicable, shall also be deemed to include the federal government or provisions of a law of the federal government, as the case may be.

As used in this section the term "claim" shall be deemed to include whichever of the following terms is applicable, to wit: "Application for initial determination", "claim for waiting period credit", or "claim for benefits".

The commissioner shall enter into an agreement with any other state whereby in the event an individual files a claim in another state against wages earned in employment in this state, or against wage credits earned in this state and in any other state or who files a claim in this state against wage credits earned in employment in any other state, or against wages earned in this state and in any other state, the claim will be paid by this state or another state as designated by the agreement in accordance with a determination on the claim as provided by the agreement and pursuant to the qualification and disqualification provisions of this title or under the provisions of the law of the designated paying state (including another state) or under such a combination of the provisions of both laws as shall be determined by the commissioner as being fair and reasonable to all affected interests, and whereby the wages of such individual, if earned in two or more states (including another state) may be combined, and further, whereby this state or another state shall reimburse the paying state in an amount which shall bear the same ratio to the amount of benefits already paid as the amount of wage credits transferred by this state or another state, and used in the determination, bear to the total wage credits used in computing the claimant's maximum amount of benefits potentially payable.

Whenever any claim is filed by an individual involving the combination of wages or a reciprocal arrangement for the payment of benefits, which is governed by the provisions of this section, the employment security department of this state, when not designated as the paying state, shall promptly make a report to the other state making the determination, showing wages earned in employment in this state.

The commissioner is hereby authorized to make to another state and to receive from another state reimbursements from or to the unemployment compensation fund in accordance with arrangements made pursuant to the provisions of this section. [1977 1st ex.s. c 292 § 9; 1971 c 3 § 11; 1959 c 266 § 1; 1949 c 214 § 8; 1945 c 35 § 44; Rem. Supp. 1949 § 9998-182. Prior: 1943 c 127 § 8; 1941 c 253 § 8; 1939 c 214 § 9; 1937 c 162 § 11.]

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

Construction—Compliance with federal act—1971 c 3: See RCW 50.44.080.

50.12.070 Employing unit records and reports. Each employing unit shall keep true and accurate work records, containing such information as the commissioner may prescribe. Such records shall be open to inspection and be subject to being copied by the commissioner or his or her authorized representatives at any reasonable time and as often as may be necessary. The commissioner may require from any employing unit any sworn or unsworn reports with respect to persons employed by it, which he or she deems necessary for the effective administration of this title. Each employer shall make periodic reports at such intervals as the commissioner may by regulation prescribe, setting forth the remuneration paid for employment to workers in its employ, the names of all such workers, and until April 1, 1978, the number of weeks for which the worker earned the "qualifying weekly wage", and beginning July 1, 1977, the hours worked by each worker and such other information as the commissioner may by regulation prescribe.

In the event the employing unit fails or has failed to report the number of hours in a reporting period for which a worker worked such number will be computed by the commissioner and given the same force and effect as if it had been reported by the employing unit. In computing the number of such hours worked the total wages for the reporting period, as reported by the employing unit, shall be divided by the dollar amount of the state's minimum wage in effect for such reporting period and the quotient, disregarding any remainder, shall be credited to the worker: *Provided*, That the computation so made will not be subject to appeal by the employing unit. [1977 1st ex.s. c 33 § 3; 1975 1st ex.s. c 228 § 2; 1945 c 35 § 46; Rem. Supp. 1945 § 9998–184. Prior: 1943 c 127 § 8; 1939 c 214 § 9; 1937 c 162 § 11.]

Effective dates—Construction—1977 1st ex.s. c 33: See notes following RCW 50.04.030.

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

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

50.12.160 Publication of title, rules and regulations, etc. The commissioner may cause to be printed for distribution to the public the text of this title, the regulations and general rules, and other material which he deems relevant and suitable. [1977 c 75 § 76; 1945 c 35 § 55; Rem. Supp. 1945 § 9998–193.]

50.12.210 Employment services for handicapped. It is the policy of the state of Washington that persons with physical, mental, or sensory handicaps shall be given equal opportunities in employment. The legislature recognizes that handicapped persons have faced unfair discrimination in employment.

For these reasons, the state employment service division of the employment security department shall give particular and special attention service to those persons

with physical, mental, or sensory handicaps which substantially limit one or more of their major life functions as defined under P.L. 93–112 and rules promulgated thereunder. Particular and special attention service shall include but not be limited to particular and special attention in counseling, referral, notification of job listings in advance of other persons, and other services of the employment service division.

Nothing in this section shall be construed so as to affect the veteran's preference or any other requirement of the United States department of labor.

The employment security department shall establish rules to implement this section. [1977 1st ex.s. c 273 § 1.]

Chapter 50.13

RECORDS AND INFORMATION—PRIVACY AND CONFIDENTIALITY

Sections

50.13.010	Legislative intent and recognition.
50.13.020	Information or records deemed private and confidential—Release when required by federal program.
50.13.030	Rules.
50.13.040	Access of individual or employing unit to records and information.
50.13.050	Access to records or information by interested party in proceeding before appeal tribunal or commissioner—Decisions not private and confidential, exception.
50.13.060	Access to records or information by governmental agencies.
50.13.070	Availability of records or information to parties to judicial or administrative proceedings—Discovery proceedings—Subpoenas.
50.13.080	Disclosure of records or information to private persons or organizations contracting to assist in operation and management of department.
50.13.090	Disclosure of records or information to contracting governmental or private organizations.
50.13.100	Disclosure of records or information where identifying details deleted or individual or employing unit consents.
50.13.900	Construction.
50.13.905	Severability—1977 1st ex.s. c 153.
50.13.910	Legislative designation and placement.

50.13.010 Legislative intent and recognition. This chapter is intended to reconcile the free access to public records granted by the open government act and the discovery rights of judicial and administrative systems with the historical confidentiality of certain records of the department of employment security and the individual's right of privacy as acknowledged by the open government act.

The legislature recognizes that records and information held by the department of employment security could be misused. Therefore, this chapter defines a right of privacy and confidentiality as regards individual and employing unit records maintained by the department of employment security. The legislature further recognizes that there are situations where this right of privacy and confidentiality is outweighed by other considerations. Therefore, this chapter also defines certain exceptions to the right of privacy and confidentiality. [1977 1st ex.s. c 153 § 1.]

50.13.020 Information or records deemed private and confidential—Release when required by federal program. Any information or records concerning an individual or employing unit obtained by the department of employment security pursuant to the administration of this title or other programs for which the department has responsibility shall be private and confidential, except as otherwise provided in this chapter. This chapter does not create a rule of evidence. The information or records may be released by the department of employment security when the release is required by the federal government in connection with a program being administered by the department for the federal government. [1977 1st ex.s. c 153 § 2.]

50.13.030 Rules. The commissioner of the department of employment security shall have the authority to adopt, amend, or rescind rules interpreting and implementing the provisions of this chapter. In particular, these rules shall specify the procedure to be followed to obtain information or records to which the public has access under this chapter or chapter 42.17 RCW. [1977 1st ex.s. c 153 § 3.]

50.13.040 Access of individual or employing unit to records and information. An individual shall have access to all records and information concerning that individual held by the department of employment security, unless the information is exempt from disclosure under RCW 42.17.310. An employing unit shall have access to its own records and to any records and information relating to a benefit claim by an individual if the employing unit is either the individual's last employer or is the individual's base year employer. An employing unit shall have access to general summaries of benefit claims by individuals whose benefits are chargeable to the employing unit's experience rating or reimbursement account. [1977 1st ex.s. c 153 § 4.]

50.13.050 Access to records or information by interested party in proceeding before appeal tribunal or commissioner—Decisions not private and confidential, exception. (1) Any interested party, as defined by rule, in a proceeding before the appeal tribunal or commissioner shall have access to any information or records deemed private and confidential under this chapter if the information or records are material to the issues in that proceeding.

(2) No decisions by the commissioner or the appeals tribunal shall be deemed private and confidential under this chapter unless the decisions are based on information obtained in a closed hearing. [1977 1st ex.s. c 153 § 5.]

50.13.060 Access to records or information by governmental agencies. (1) Governmental agencies, including law enforcement agencies, prosecuting agencies, and the executive branch, whether state, local, or federal shall have access to information or records deemed private and confidential under this chapter if the information or records are needed by the agency for official purposes and:

(a) The agency submits an application in writing to the employment security department for the records or information containing a statement of the official purposes for which the information or records are needed and specific identification of the records or information sought from the department; and

(b) The director, commissioner, chief executive, or other official of the agency has verified the need for the specific information in writing either on the application or on a separate document; and

(c) The agency requesting access has served a copy of the application for records or information on the individual or employing unit whose records or information are sought and has provided the department with proof of service. Service shall be made in a manner which conforms to the civil rules for superior court. The requesting agency shall include with the copy of the application a statement to the effect that the individual or employing unit may contact the public records officer of the employment security department to state any objections to the release of the records or information. The employment security department shall not act upon the application of the requesting agency until at least five days after service on the concerned individual or employing unit. The employment security department shall consider any objections raised by the concerned individual or employing unit in deciding whether the requesting agency needs the information or records for official purposes.

(2) The requirements of subsections (1) and (7) of this section shall not apply to the state legislative branch. The state legislature shall have access to information or records deemed private and confidential under this chapter, if the legislature or a legislative committee finds that the information or records are necessary and for official purposes. If the employment security department does not make information or records available as provided in this subsection, the legislature may exercise its authority granted by chapter 44.16 RCW.

(3) In cases of emergency the governmental agency requesting access shall not be required to formally comply with the provisions of subsection (1) of this section at the time of the request if the procedures required by subsection (1) of this section are complied with by the requesting agency following the receipt of any records or information deemed private and confidential under this chapter. An emergency is defined as a situation in which irreparable harm or damage could occur if records or information are not released immediately.

(4) The requirements of subsection (1)(c) of this section shall not apply to governmental agencies where the procedures would frustrate the investigation of possible violations of criminal laws.

(5) Governmental agencies may have access to certain records or information, strictly limited to such items as names, addresses, social security numbers, and general information about benefit entitlement, for comparison purposes with records or information possessed by the requesting agency to detect improper or fraudulent claims. In those cases the governmental agency shall not be required to comply with subsection (1)(c) of this section, but the remainder of that section must be satisfied.

(6) Disclosure to governmental agencies of information or records obtained by the employment security department from the federal government shall be governed by any applicable federal law or any agreement between the federal government and the employment security department where so required by federal law. When federal law does not apply to the records or information state law shall control.

(7) The disclosure of any records or information by a governmental agency which has obtained the records or information under this section is prohibited unless the disclosure is directly connected to the official purpose for which the records or information were obtained. [1977 1st ex.s. c 153 § 6.]

50.13.070 Availability of records or information to parties to judicial or administrative proceedings—Discovery proceedings—Subpoenas. Information or records deemed private and confidential under this chapter shall be available to parties to judicial or formal administrative proceedings only upon a finding by the presiding officer that the need for the information or records in the proceeding outweighs any reasons for the privacy and confidentiality of the information or records. Information or records deemed private and confidential under this chapter shall not be available in discovery proceedings unless the court in which the action has been filed has made the finding specified above. A judicial or administrative subpoena directed to the employment security department must contain this finding. A subpoena for records or information held by the department may be directed to and served upon any employee of the department, but the department may specify by rule which employee shall produce the records or information in compliance with the subpoena. [1977 1st ex.s. c 153 § 7.]

50.13.080 Disclosure of records or information to private persons or organizations contracting to assist in operation and management of department. The employment security department shall have the right to disclose information or records deemed private and confidential under this chapter to any private person or organization when such disclosure is necessary to permit private contracting parties to assist in the operation and management of the department in instances where certain departmental functions may be delegated to private parties to increase the department's efficiency or quality of service to the public. The private persons or organizations shall use the information or records solely for the purpose for which the information was disclosed and shall be bound by the same rules of privacy and confidentiality as employment security department employees. Nothing in this section shall be construed as limiting or restricting the effect of RCW 42.17.260(5). The misuse or unauthorized release of records or information deemed private and confidential under this chapter by any private person or organization to which access is permitted by this section shall subject the person or organization to a civil penalty of five hundred dollars.

Suit to enforce this section shall be brought by the attorney general and the amount of any penalties collected shall be paid into the employment security department administrative contingency fund. The attorney general may recover reasonable attorneys' fees for any action brought to enforce this section. [1977 1st ex.s. c 153 § 8.]

50.13.090 Disclosure of records or information to contracting governmental or private organizations. Where the employment security department contracts to provide services to other governmental or private organizations, the department may disclose to those organizations information or records deemed private and confidential which have been acquired in the performance of the department's obligations under the contracts. [1977 1st ex.s. c 153 § 9.]

50.13.100 Disclosure of records or information where identifying details deleted or individual or employing unit consents. Nothing in this chapter shall prevent the disclosure of information or records deemed private and confidential under this chapter if all details identifying an individual or employing unit are deleted or the individual or employing unit consents to the disclosure. [1977 1st ex.s. c 153 § 10.]

50.13.900 Construction. Any ambiguities in this chapter shall be construed in a manner consistent with federal laws applying to the employment security department. If any provision of this chapter or the application thereof is held invalid by a final decision of any court or declared by the secretary of the department of labor of the United States to be inconsistent with federal laws upon which funding of the employment security department is contingent, the invalid or inconsistent provision shall be ineffective only to the extent necessary to insure compliance with the court decision or federal determination and the remainder of the chapter shall be given full effect. [1977 1st ex.s. c 153 § 11.]

50.13.905 Severability—1977 1st ex.s. c 153. 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. [1977 1st ex.s. c 153 § 13.]

50.13.910 Legislative designation and placement. Sections 1 through 11 of this act shall constitute a new chapter in Title 50 RCW and shall be designated as chapter 50.13 RCW. [1977 1st ex.s. c 153 § 14.]

Chapter 50.16 FUNDS

Sections

50.16.010 Unemployment compensation fund—Administrative contingency fund.

50.16.010 Unemployment compensation fund—Administrative contingency fund. There shall be maintained as special funds, separate and apart from all public moneys or funds of this state an unemployment compensation fund and an administrative contingency fund, which shall be administered by the commissioner exclusively for the purposes of this title, and to which RCW 43.01.050 shall not be applicable. The unemployment compensation fund shall consist of

- (1) all contributions and payments in lieu of contributions collected pursuant to the provisions of this title,
- (2) interest earned upon any moneys in the fund,
- (3) any property or securities acquired through the use of moneys belonging to the fund,
- (4) all earnings of such property or securities,
- (5) any moneys received from the federal unemployment account in the unemployment trust fund in accordance with Title XII of the social security act, as amended,
- (6) all money recovered on official bonds for losses sustained by the fund,
- (7) all money credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended,
- (8) all money received from the federal government as reimbursement pursuant to section 204 of the federal-state extended compensation act of 1970 (84 Stat. 708-712; 26 U.S.C. Sec. 3304), and
- (9) all moneys received for the fund from any other source.

All moneys in the unemployment compensation fund shall be commingled and undivided.

The administrative contingency fund shall consist of all interest on delinquent contributions collected pursuant to this title after June 20, 1953, all fines and penalties collected pursuant to the provisions of this title, and all sums recovered on official bonds for losses sustained by the fund and sums collected pursuant to RCW 50.44.090: *Provided*, That all fees, fines, forfeitures and penalties collected or assessed by a justice court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. The amount in this fund that exceeds the amount deposited pursuant to RCW 50.44.090 by one hundred thousand dollars on the close of business of the last day of each calendar quarter shall be immediately transferred to this state's account in the unemployment trust fund. Moneys available in the administrative contingency fund shall be expended upon the direction of the commissioner, with the approval of the governor, whenever it appears to him or her that such expenditure is necessary for:

(a) The proper administration of this title and no federal funds are available for the specific purpose to which such expenditure is to be made, provided, the moneys are not substituted for appropriations from federal funds which, in the absence of such moneys, would be made available.

(b) The proper administration of this title for which purpose appropriations from federal funds have been requested but not yet received, provided, the administrative contingency fund will be reimbursed upon receipt of

the requested federal appropriation. [1977 1st ex.s. c 292 § 24; 1973 c 73 § 4; 1969 ex.s. c 199 § 27; 1959 c 170 § 1; 1955 c 286 § 2; 1953 ex.s. c 8 § 5; 1945 c 35 § 60; Rem. Supp. 1945 § 9998-198. Prior: 1943 c 127 § 6; 1941 c 253 §§ 7, 10; 1939 c 214 § 11; 1937 c 162 § 13.]

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

Effective date—1973 c 73: See note following RCW 50.04.030.

Chapter 50.20 BENEFITS AND CLAIMS

Sections

50.20.050	Disqualification for leaving work voluntarily without good cause.
50.20.060	Disqualification from benefits due to misconduct or felony.
50.20.095	Disqualification for attending school or institution of higher education.
50.20.098	Services performed by aliens.
50.20.100	Suitable work factors.
50.20.113	Unemployment of sport or athletic event participants during period between sport seasons.
50.20.120	Amount of benefits.

50.20.050 Disqualification for leaving work voluntarily without good cause. (1) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has left work voluntarily without good cause and thereafter until he or she has obtained work and earned wages of not less than his or her suspended weekly benefit amount in each of five calendar weeks.

(2) An individual shall not be considered to have left work voluntarily without good cause when:

(a) He or she has left work to accept a bona fide job offer; or

(b) The separation was because of the illness or disability of the claimant or a member of the claimant's immediate family if the claimant took all reasonable precautions, in accordance with any regulations that the commissioner may prescribe, to protect his or her employment status by having promptly notified the employer of the reason for the absence and by having promptly requested reemployment when again able to assume employment.

(3) In determining whether an individual has left work voluntarily without good cause, the commissioner shall consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, the individual's ability to perform the work, and such other work connected factors as the commissioner may deem pertinent, including state and national emergencies. Good cause shall not be established for voluntarily leaving work because of its distance from an individual's residence where the distance was known to the individual at the time he or she accepted the employment, nor because of any other significant work factor which was generally known and present at the time he or she accepted employment unless the related circumstances have so changed as to amount to a substantial involuntary deterioration of the work factor or unless the commissioner determines that other related

circumstances would work an unconscionable hardship on the individual were he or she required to continue in the employment.

(4) Subsections (1) and (3) of this section shall not apply to an individual whose marital status or domestic responsibilities cause him or her to leave employment. Such an individual shall not be eligible for unemployment insurance benefits until he or she has requalified, either by obtaining work and earning wages of not less than the suspended weekly benefit amount in each of five calendar weeks or by reporting in person to the department during ten different calendar weeks and certifying on each occasion that he or she is ready, able, and willing to immediately accept any suitable work which may be offered, is actively seeking work pursuant to customary trade practices, and is utilizing such employment counseling and placement services as are available through the department. [1977 1st ex.s. c 33 § 4; 1970 ex.s. c 2 § 21; 1953 ex.s. c 8 § 8; 1951 c 215 § 12; 1949 c 214 § 12; 1947 c 215 § 15; 1945 c 35 § 73; Rem. Supp. 1949 § 9998-211. Prior: 1943 c 127 § 3; 1941 c 253 § 3; 1939 c 214 § 3; 1937 c 162 § 5.]

Effective dates—Construction—1977 1st ex.s. c 33: See notes following RCW 50.04.030.

Effective date—1970 ex.s. c 2: See note following RCW 50.04.020.

50.20.060 Disqualification from benefits due to misconduct or felony. An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has been discharged or suspended for misconduct connected with his or her work and thereafter until he or she has obtained work and earned wages of not less than the suspended weekly benefit amount in each of five calendar weeks. An individual who has been discharged because of a felony of which he or she has been convicted or has admitted committing and which is connected with his or her work shall be disqualified from receiving any benefits for which base year credits are earned in any employment prior to the discharge. [1977 1st ex.s. c 33 § 5; 1970 ex.s. c 2 § 22; 1953 ex.s. c 8 § 9; 1951 c 215 § 13; 1949 c 214 § 13; 1947 c 215 § 16; 1945 c 35 § 74; Rem. Supp. 1949 § 9998-212. Prior: 1943 c 127 § 3; 1941 c 253 § 3; 1939 c 214 § 3; 1937 c 162 § 5.]

Effective dates—Construction—1977 1st ex.s. c 33: See notes following RCW 50.04.030.

Effective date—1970 ex.s. c 2: See note following RCW 50.04.020.

50.20.095 Disqualification for attending school or institution of higher education. Any individual registered at an established school in a course of study providing scholastic instruction of twelve or more hours per week, or the equivalent thereof, shall be disqualified from receiving benefits or waiting period credit for any week during the school year commencing with the first week of scholastic instruction or the week of leaving employment to return to school, whichever is the earlier, and ending with the week immediately before the first full week in which the individual is no longer registered for

classes: *Provided*, That this nonregistration will be for a period of sixty days or longer. The term "school" includes primary schools, secondary schools, and "institutions of higher education" as that phrase is defined in RCW 50.44.030.

This disqualification shall not apply to any individual who:

(1) Is in approved training within the meaning of RCW 50.20.043; or

(2) Demonstrates to the commissioner by a preponderance of the evidence his or her actual availability for work, and in arriving at this determination the commissioner shall consider the following factors:

(a) Prior work history;

(b) Scholastic history;

(c) Past and current labor market attachment; and

(d) Past and present efforts to seek work. [1977 1st ex.s. c 33 § 8.]

Effective dates—Construction—1977 1st ex.s. c 33: See notes following RCW 50.04.030.

50.20.098 Services performed by aliens. (1) Benefits shall not be paid on the basis of services performed by an alien unless the alien is an individual who has been lawfully admitted for permanent residence or otherwise is permanently residing in the United States under color of law (including an alien who is lawfully present in the United States as a result of the application of 8 U.S.C. Sec. 1153(a)(7) or 8 U.S.C. Sec. 1182(d)(5)): *Provided*, That any modifications to 26 U.S.C. Sec. 3304(a)(14) as provided by PL 94-566 which specify other conditions or other effective date than stated herein for the denial of benefits based on services performed by aliens and which modifications are required to be implemented under state law as a condition for full tax credit against the tax imposed by 26 U.S.C. Sec. 3301 shall be deemed applicable under this section.

(2) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(3) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to the individual are not payable because of his or her alien status shall be made except upon a preponderance of the evidence. [1977 1st ex.s. c 292 § 10.]

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

50.20.100 Suitable work factors. Suitable work for an individual is employment in an occupation in keeping with the individual's prior work experience, education, or training and if the individual has no prior work experience, special education, or training for employment available in the general area, then employment which the individual would have the physical and mental ability to perform. In determining whether work is suitable for an individual, the commissioner shall also consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, the individual's length of unemployment and prospects for

securing local work in the individual's customary occupation, the distance of the available work from the individual's residence, and such other factors as the commissioner may deem pertinent, including state and national emergencies. [1977 1st ex.s. c 33 § 6; 1973 1st ex.s. c 158 § 6; 1945 c 35 § 78; Rem. Supp. 1945 § 9998-216.]

Effective dates—Construction—1977 1st ex.s. c 33: See notes following RCW 50.04.030.

Effective date—1973 1st ex.s. c 158: See note following RCW 50.08.020.

50.20.113 Unemployment of sport or athletic event participants during period between sport seasons. Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if the individual performed the services in the first of the seasons (or similar periods) and there is a reasonable assurance that the individual will perform the services in the latter of the seasons (or similar periods). [1977 1st ex.s. c 292 § 6.]

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

50.20.120 Amount of benefits. (1) Subject to the other provisions of this title benefits shall be payable to any eligible individual during the individual's benefit year in a maximum amount equal to the lesser of thirty times the weekly benefit amount (determined hereinafter) or one-third of the individual's base year wages under this title.

(2) An individual's weekly benefit amount shall be an amount equal to one twenty-fifth of the average quarterly wages of the individual's total wages during the two quarters of the individual's base year in which such total wages were highest, except that if such computed amount is less than seventeen dollars, the weekly benefit amount shall be deemed to be seventeen dollars. The maximum amount payable weekly shall be determined as of each June 30th to apply to benefit years beginning in the twelve-month period immediately following such June 30th. The maximum amount payable weekly shall be fifty-five percent of the "average weekly wage" for the calendar year preceding such June 30th: *Provided*, That if as of any June 30th the unemployment compensation trust fund balance has improved so that the employer contribution as determined pursuant to RCW 50.24.010 is less than three percent, the maximum amount payable weekly for benefit years beginning with the first full calendar week in July next following shall be sixty percent of the "average weekly wage" for the calendar year preceding such June 30: *Provided further*, That if any weekly benefit or maximum benefit amount computed herein is not a multiple of one dollar, it shall be adjusted to the nearest multiple of one dollar, except that if the computed amount ends in fifty cents, it shall be adjusted to the next higher multiple of one dollar. [1977 1st ex.s. c 33 § 7; 1970 ex.s. c 2 § 5; 1959 c 321 § 2; 1955 c 209 § 1; 1951 c 265 § 11; 1949 c 214 § 16;

1945 c 35 § 80; Rem. Supp. 1949 § 9998-218. Prior: 1943 c 127 § 1; 1941 c 253 § 1; 1939 c 214 § 1; 1937 c 162 § 3.]

Effective dates—Construction—1977 1st ex.s. c 33: See notes following RCW 50.04.030.

Effective date—1970 ex.s. c 2: See note following RCW 50.04.020.

Chapter 50.22 EXTENDED BENEFITS

Sections

50.22.010 Definitions.

50.22.010 Definitions. As used in this chapter, unless the context clearly indicates otherwise:

(1) "Extended benefit period" means a period which:

(a) Begins with the third week after whichever of the following weeks occurs first:

(i) A week for which there is a national "on" indicator; or

(ii) A week for which there is a state "on" indicator; and

(b) Ends with the third week after the first week for which there is both a national "off" indicator and a state "off" indicator: *Provided*, That no extended benefit period shall last for a period of less than thirteen consecutive weeks, and further that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week after the close of a prior extended benefit period which was in effect with respect to this state.

(2) There is a "national 'on' indicator" for a week if the United States secretary of labor determines that for the period consisting of such week and the twelve weeks immediately preceding it, the rate of insured unemployment (seasonally adjusted) for all states equaled or exceeded four and five-tenths percent (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of the period).

(3) There is a "national 'off' indicator" for a week if the United States secretary of labor determines that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all states was less than four and five-tenths percent (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of the period).

(4) There is a "state 'on' indicator" for this state for a week if the commissioner determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) either:

(a) Equaled or exceeded one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years and equaled or exceeded four percent; or

(b) Equaled or exceeded five percent.

(5) There is a "state 'off' indicator" for this state for a week if the commissioner determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) was either:

(a) Less than four percent; or

(b) Four percent or more but less than five percent and the rate of insured unemployment was less than one hundred twenty percent of the average of the rates for the corresponding thirteen week period ending in each of the two preceding calendar years.

(6) "Regular benefits" means benefits payable to an individual under this title or under any state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits or additional benefits.

(7) "Extended benefits" means benefits payable for weeks of unemployment beginning in an extended benefit period to an individual under this title or under any state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than regular or additional benefits.

(8) "Additional benefits" are benefits totally financed by the state and payable under this title to exhaustees by reason of conditions of high unemployment or by reason of other special factors.

(9) "Eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period that is in effect in this state and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

(10) "Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period:

(a) Has received, prior to such week, all of the regular benefits that were payable to him under this title or any other state law (including dependents' allowances and regular benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year that includes such week; or

(b) Has received, prior to such week, all of the regular benefits that were available to him under this title or any other state law (including dependents' allowances and regular benefits available to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year that includes such week, after the cancellation of some or all of his wage credits or the total or partial reduction of his rights to regular benefits: *Provided*, That, for the purposes of (a) and (b), an individual shall be deemed to have received in his current benefit year all of the regular benefits that were payable to him, or available to him, as the case may be, even though:

(i) As a result of a pending appeal with respect to wages or employment, or both, that were not included in the original monetary determination with respect to his current benefit year, he may subsequently be determined to be entitled to more regular benefits; or

(ii) By reason of the seasonal provisions of another state law, he is not entitled to regular benefits with respect to such week of unemployment (although he may be entitled to regular benefits with respect to future weeks of unemployment in the next season, as the case may be, in his current benefit year), and he is otherwise an exhaustee within the meaning of this section with respect to his right to regular benefits under such state law seasonal provisions during the season or off season in which that week of unemployment occurs; or

(iii) Having established a benefit year, no regular benefits are payable to him during such year because his wage credits were canceled or his right to regular benefits was totally reduced as the result of the application of a disqualification; or

(c) His benefit year having ended prior to such week, he has insufficient wages or employment, or both, on the basis of which he could establish in any state a new benefit year that would include such week, or having established a new benefit year that includes such week, he is precluded from receiving regular benefits by reason of the provision in RCW 50.04.030 which meets the requirement of section 3304(a)(7) of the Federal Unemployment Tax Act, or the similar provision in any other state law; and

(d) (i) Has no right for such week to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, and such other federal laws as are specified in regulations issued by the United States secretary of labor; and

(ii) Has not received and is not seeking for such week unemployment benefits under the unemployment compensation law of the Virgin Islands or Canada, unless the appropriate agency finally determines that he is not entitled to unemployment benefits under such law for such week.

(11) "State law" means the unemployment insurance law of any state, approved by the United States secretary of labor under section 3304 of the internal revenue code of 1954. [1977 1st ex.s. c 292 § 11; 1973 c 73 § 7; 1971 c 1 § 2.]

Application—1977 1st ex.s. c 292 § 11: "The provisions of section 11 of this 1977 amendatory act shall apply to the week ending May 21, 1977, and all weeks thereafter." [1977 1st ex.s. c 292 § 25.] This applies to the amendment to RCW 50.22.010 by 1977 1st ex.s. c 292 § 11.

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

Effective date—1973 c 73: See note following RCW 50.04.030.

Emergency—**Effective date**—1971 c 1: "This 1971 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 the Sunday following the day on which the governor signs this enactment." [1971 c 1 § 11.] The effective date of this act, codified as chapter 50.22 RCW, was January 17, 1971.

Repealer—**Effect as to benefits**—1971 c 1: "Section 23, chapter 2, Laws of 1970 ex.s. and RCW 50.20.127 are each hereby repealed. No benefits shall be paid pursuant to RCW 50.20.127 for weeks commencing on or after the effective date of this 1971 amendatory act." [1971 c 1 § 10.]

Chapter 50.24
CONTRIBUTIONS BY EMPLOYERS

Sections

50.24.010	Payment of contributions—Payments in lieu of contributions not remuneration.
50.24.012	Rate for payment of employer contribution under RCW 50.24.010 during 1978 and 1979.
50.24.013	Collection and deposit of portion of employer contribution under RCW 50.24.012 in administrative contingency fund authorized—Purpose.
50.24.160	Election of coverage.

50.24.010 Payment of contributions—Payments in lieu of contributions not remuneration. Contributions shall accrue and become payable by each employer (except employers as described in RCW 50.44.010 who have properly elected to make payments in lieu of contributions and those employers who are required to make payments in lieu of contributions) for each calendar year in which the employer is subject to this title at the rate of two and seven-tenths percent of wages paid each employee, except for such rates as determined for qualified employers according to chapter 50.29 RCW: *Provided*, That if, as of any June 30th, the amount in the unemployment compensation fund is less than three and one-half percent of total remuneration paid by all employers during the preceding calendar year and reported on or before the March 31st following such year, contributions for the following calendar year for all employers shall be payable at the rate of three percent of wages subject to tax.

The amount of wages subject to tax for each individual as of January 1, 1971, shall be four thousand two hundred dollars. If the amount in the unemployment compensation fund on any June 30th, after January 1, 1971, is less than four and one-half percent of total remuneration paid by all employers during the preceding calendar year and reported on or before the March 31st following such year, the amount of wages subject to tax shall increase on the January 1st next following by six hundred dollars: *Provided*, That the amount of wages subject to tax in any calendar year shall not exceed eighty percent of the "average annual wage" for the second preceding calendar year rounded to the next lower multiple of three hundred dollars.

In making computations under this section and RCW 50.29.010, wages paid based on services for employers making payments in lieu of contributions shall not be considered remuneration. Moneys paid from the fund, based on services performed for employers who make payments in lieu of contributions, which have not been reimbursed to the fund as of any June 30 shall be deemed an asset of the unemployment compensation fund, to the extent that such moneys exceed the amount of payments in lieu of contributions which the commissioner has previously determined to be uncollectible: *Provided, further*, That the amount attributable to employment with the state shall also include interest as provided for in RCW 50.44.020.

Contributions shall become due and be paid by each employer to the treasurer for the unemployment compensation fund in accordance with such regulations as

the commissioner may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in employment of the employer. Any deduction in violation of the provisions of this section shall be unlawful.

In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent. [1977 1st ex.s. c 33 § 9; 1971 c 3 § 13; 1970 ex.s. c 2 § 8; 1949 c 214 § 18; 1945 c 35 § 89; Rem. Supp. 1949 § 9998-227. Prior: 1943 c 127 § 5; 1941 c 253 § 5; 1939 c 214 § 5; 1937 c 162 § 7.]

Effective dates—Construction—1977 1st ex.s. c 33: See notes following RCW 50.04.030.

Construction—Compliance with federal act—1971 c 3: See RCW 50.44.080.

50.24.012 Rate for payment of employer contribution under RCW 50.24.010 during 1978 and 1979. Only during the 1978 and 1979 calendar years, contributions payable by employers under the provisions of RCW 50.24.010 shall be payable at the rate of three and three-tenths percent of wages subject to tax, rather than in accordance with the rates therein. [1977 1st ex.s. c 33 § 10.]

Effective dates—Construction—1977 1st ex.s. c 33: See notes following RCW 50.04.030.

50.24.013 Collection and deposit of portion of employer contribution under RCW 50.24.012 in administrative contingency fund authorized—Purpose. The commissioner is authorized, with the approval of the governor, to collect from the three-tenths of one percent increase in employer contributions provided in RCW 50.24.012, for calendar years 1978 and 1979, nine and one-tenth percent of the additional revenue generated by the three-tenths of one percent increase, or so much thereof as may be deemed appropriate by the commissioner, to be deposited in the administrative contingency fund, one-half of such deposit to be extended for the purpose of operating a quality control program similar to the pilot quality program project which ended in 1976, in local employment security offices, and one-half for increased audits and investigations of employers subject to Title 50 RCW. In determining the amount of the deposit, if any, authorized by this section, the commissioner and the governor shall consider the impact any such deposit would have on employer contributions required by the federal government for the repayment of a loan from the federal unemployment trust fund. [1977 1st ex.s. c 292 § 22.]

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

50.24.160 Election of coverage. Any employing unit for which services that do not constitute employment as defined in this title are performed may file with the commissioner a written election that all such services performed by any distinct class or group of individuals or by all individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this title

for not less than two calendar years. Upon the written approval of such election by the commissioner, such services shall be deemed to constitute employment subject to this title from and after the date stated in such approval. Services covered pursuant to this section shall cease to be deemed employment subject hereto as of January 1st of any calendar year subsequent to such two calendar years, only if the employing unit files with the commissioner prior to the fifteenth day of January of such year a written application for termination of coverage. [1977 1st ex.s. c 292 § 12; 1972 ex.s. c 35 § 1; 1971 c 3 § 14; 1959 c 266 § 6; 1951 c 265 § 8; 1951 c 215 § 9; 1945 c 35 § 104; Rem. Supp. 1945 § 9998-242.]

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

Construction—Compliance with federal act—1971 c 3: See RCW 50.44.080.

Chapter 50.44

SPECIAL COVERAGE PROVISIONS

Sections

50.44.020	State or any of its wholly owned instrumentalities or jointly owned instrumentalities of this state and another state or this state and one or more of its political subdivisions—Exclusions—Payments.
50.44.030	Political subdivision or instrumentality of one or more political subdivisions of this state or one or more political subdivisions of this state and any other state—Registration—Elections for financing benefits—Pool accounts.
50.44.035	Local government tax.
50.44.037	"Institution of higher education" defined.
50.44.040	Services excluded under "employment" as used in RCW 50.44.010, 50.44.020, and 50.44.030.
50.44.050	Benefits payable, terms and conditions.
50.44.060	Financing benefits paid employees of nonprofit organizations—Election to make payments in lieu of contributions.
50.44.090	Construction—Mandatory coverage of employees of political subdivision provisions of 1977 1st ex.s. c 292.

50.44.020 State or any of its wholly owned instrumentalities or jointly owned instrumentalities of this state and another state or this state and one or more of its political subdivisions—Exclusions—Payments. Commencing with benefit years beginning on or after January 28, 1971, services performed subsequent to September 30, 1969 in the employ of this state or any of its wholly owned instrumentalities or jointly owned instrumentalities of this state and another state or this state and one or more of its political subdivisions shall be deemed services in employment unless such services are excluded from the term employment by RCW 50.44.040.

The state shall make payments in lieu of contributions with respect to benefits attributable to such employment as provided with respect to nonprofit organizations in subsections (2) and (3) of RCW 50.44.060: *Provided, however,* That for weeks of unemployment beginning after January 1, 1979, the state shall pay in addition to the full amount of regular and additional benefits so attributable the full amount of extended benefits so attributable: *Provided, further,* That no payment will be

required from the state until the expiration of the twelve-month period following the end of the biennium in which the benefits attributable to such employment were paid. The amount of this payment shall include an amount equal to the amount of interest that would have been realized for the benefit of the unemployment compensation trust fund had such payments been received within thirty days after the day of the quarterly billing provided for in RCW 50.44.060(2)(a). [1977 1st ex.s. c 292 § 13; 1971 c 3 § 19.]

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

50.44.030 Political subdivision or instrumentality of one or more political subdivisions of this state or one or more political subdivisions of this state and any other state—Registration—Elections for financing benefits—Pool accounts. (1) All services performed for any political subdivision or instrumentality of one or more political subdivisions of this state or one or more political subdivisions of this state and any other state after December 31, 1977, will be deemed to be services in employment to the extent coverage is not exempted under RCW 50.44.040.

(2) All such units of government shall file, before December 15, 1977, a written registration with the commissioner of the employment security department. Such registration shall specify the manner in which the unit of government will finance the payment of benefits. The elections available to counties, cities and towns are the local government tax, provided for in RCW 50.44.035, or payment in lieu of contributions, as described in RCW 50.44.060. The elections available to other units of government are the contributions plan in chapters 50.24 and 50.29 RCW, or payments in lieu of contributions, described in RCW 50.44.060. Under any election the governmental unit will be charged the full amount of regular and additional benefits attributable to its account plus one-half the amount of extended benefits so attributable: *Provided, however,* That beginning with weeks of unemployment commencing after January 1, 1979, the unit of government which is financing the payment of benefits under the payment in lieu of contributions option shall, in addition to paying the full amount of regular and additional benefits attributable to its account, pay the full amount of extended benefits so attributable.

(3) Any political subdivision or instrumentality of more than one political subdivision of this state is hereby authorized to enter into agreements with other political subdivisions or instrumentalities of more than one political subdivision of this state to form pool accounts for the purpose of making payments in lieu of contributions. These accounts shall be formed and administered in accordance with applicable regulations. The formation of such accounts shall not relieve the governmental unit of the responsibility for making required payments in the event that the pool account does not make the payments. [1977 1st ex.s. c 292 § 14; 1972 ex.s. c 35 § 2; 1971 c 3 § 20.]

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

50.44.035 Local government tax. (1) Any county, city or town not electing to make payments in lieu of contributions shall pay a "local government tax." Taxes paid under this section shall be paid into an administratively identifiable account in the unemployment compensation fund. This account shall be self-sustaining. For calendar years 1978 and 1979 all such employers shall pay local government tax at the rate of one and one-quarter percent of all remuneration paid by the governmental unit for services in its employment. For each year after 1979 each such employer's rate of tax shall be determined in accordance with this section: *Provided, however,* That whenever it appears to the commissioner that the anticipated benefit payments from the account would jeopardize reasonable reserves in this identifiable account the commissioner may at the commencement of any calendar quarter, impose an emergency excess tax of not more than one percent of remuneration paid by the participating governmental units which "excess tax" shall be paid in addition to the applicable rate computed pursuant to this section until the calendar year following the next September 1.

(2) A reserve account shall be established for each such employer.

(a) The "reserve account" of each such employer shall be credited with tax amounts paid and shall be charged with benefit amounts charged in accordance with the formula set forth in RCW 50.44.060 as now or hereafter amended except that such employer's account shall be charged for the full amount of extended benefits so attributable for weeks of unemployment commencing after January 1, 1979. Such credits and charges shall be cumulative from January 1, 1978.

(b) After the cutoff date, the "reserve ratio" of each such employer shall be computed by dividing its reserve account balance as of the computation date by the total remuneration paid during the preceding calendar year for services in its employment. This division shall be carried to four decimal places, with the remaining fraction, if any, disregarded.

(3) A "benefit cost ratio" for each such employer shall be computed by dividing its total benefit charges during the thirty-six months ending on June 30 by its total remuneration during the three preceding calendar years: *Provided,* That after August 31 in 1979 each employer's total benefit charges for the twelve months ending on June 30 shall be divided by its total remuneration paid in the last three quarters of calendar year 1978; and after August 31 in 1980 each employer's total benefit charges for the twenty-four months ending June 30 shall be divided by its total remuneration paid in the last three calendar quarters of 1978 and the four calendar quarters of 1979. Such computations shall be carried to four decimal places, with the remaining fraction, if any, disregarded.

(4) For each such employer its benefit cost ratio shall be subtracted from its reserve ratio. One-third of the resulting amount shall be subtracted from its benefit cost ratio. The resulting figure, expressed as a percentage and rounded to the nearest tenth of one percent, shall become its local government tax rate for the following rate year. For the rate year 1980 no tax rate shall

be less than 0.6 percent nor more than 2.2 percent. For 1981 no tax rate shall be less than 0.4 percent nor more than 2.6 percent. For years after 1981 no tax rate shall be less than 0.2 percent or more than 3.0 percent. No individual rate shall be increased any more than 1.0 percent from one rate year to the next.

(5) Any county, city or town electing participation under this section at any time after December 15, 1977, shall be assigned a tax rate of one and one-quarter percent of total remuneration for the first eight quarters of the participation.

(6) Each year after 1980 the commissioner shall review the local government tax system and make recommendations to the legislature for changes in said system.

(7) "Local government tax" shall be deemed to be "contributions" to the extent that such usage is consistent with the purposes of this title. Such construction shall include but not be limited to those portions of this title and the rules and regulations enacted pursuant thereto dealing with assessments, interest, liens, collection procedures and remedies, administrative and judicial review, and the imposition of administrative, civil and criminal sanctions. [1977 1st ex.s. c 292 § 15.]

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

50.44.037 "Institution of higher education" defined.

For the purposes of this chapter, the term "institution of higher education" means an educational institution in this state which:

(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) Is legally authorized within this state to provide a program of education beyond high school;

(3) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized occupation; and

(4) Is a public or other nonprofit institution.

Notwithstanding any of the foregoing subsections, all colleges and universities in this state are "institutions of higher education". [1977 1st ex.s. c 292 § 16.]

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

50.44.040 Services excluded under "employment" as used in RCW 50.44.010, 50.44.020, and 50.44.030. The term "employment" as used in RCW 50.44.010, 50.44.020, and 50.44.030 shall not include service performed:

(1) In the employ of (a) a church or convention or association of churches, or (b) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; or

(2) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

(3) Before January 1, 1978, in the employ of a non-governmental educational institution, approved or accredited by the state board of education, which is not an "institution of higher education"; or

(4) In a facility conducted for the purpose of carrying out a program of (a) rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or (b) providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work; or

(5) As part of an unemployment work-relief or work-training program assisted or financed in whole or in part by a federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work-relief or work-training; or

(6) For a custodial or penal institution by an inmate of the custodial or penal institution; or

(7) In the employ of a hospital, if such service is performed by a patient of such hospital; or

(8) In the employ of a school, college, or university, if such service is performed (a) by a student who is enrolled and is regularly attending classes at such school, college, or university, or (b) by the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that (i) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and (ii) such employment will not be covered by any program of unemployment insurance; or

(9) By an individual under the age of twenty-two who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employee, except that this subsection shall not apply to service performed in a program established for or on behalf of an employer or group of employers; or

(10) Before January 1, 1978, in the employ of the state or one of its instrumentalities or a political subdivision or one of its instrumentalities by an individual who is (a) occupying an elective office, or (b) who is compensated solely on a fee or per diem basis; or

(11) Before January 1, 1978, in the employ of the legislature of the state of Washington by an individual who is compensated pursuant to an agreement which provides for a guaranteed rate of compensation for irregular hours worked; or

(12) In the employ of a nongovernmental preschool which is devoted exclusively to the area of child development training of preschool age children through an established curriculum of formal classroom or laboratory instruction which did not employ four or more individuals on each of some twenty days during the calendar

year or the preceding calendar year, each day being in a different calendar week; or

(13) After December 31, 1977, in the employ of the state or any of its instrumentalities or political subdivisions of this state in any of its instrumentalities by an individual in the exercise of duties:

(a) As an elected official;

(b) As a member of the national guard or air national guard; or

(c) In a policymaking position the performance of the duties of which ordinarily do not require more than eight hours per week. [1977 1st ex.s. c 292 § 17; 1975 1st ex.s. c 67 § 1; 1975 c 4 § 1; 1973 c 73 § 9; 1971 c 3 § 21.]

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

Effective date—1973 c 73: See note following RCW 50.04.030.

50.44.050 Benefits payable, terms and conditions. Benefits based on services in employment covered by or pursuant to this chapter shall be payable on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this title: *Provided however*, That benefits based on service in an instructional, research or principal administrative capacity in an educational institution shall not be paid to an individual for any week of unemployment suffered after December 31, 1977, which commences during the period between two successive academic years or during the period between two terms, successive or otherwise, or during a period of paid sabbatical leave provided in the individual's contract if the individual performs the services in the first of the academic years or terms and there is a contract or a reasonable assurance that the individual will perform services in the capacity for any educational institution in the second of the academic years or terms; or during any nonwork period occurring during a term that does not diminish the individual's salary for the term. Any employee of a common school district who is presumed to be reemployed pursuant to RCW 28A.67.070 shall be deemed to have a contract for the ensuing term.

Benefits shall not be paid based on services in any other capacity for an educational institution (other than an institution of higher education as defined in *section 15 of this amendatory act) for any week of unemployment suffered after December 31, 1977, which commences during the period between two successive academic years or during the period between two terms, successive or otherwise, if the individual performs these services in the first of such academic years or terms and there is an individual contract or an individual written notice to the employee that the individual will perform services for an educational institution (other than an institution of higher education as defined in *section 15 of this amendatory act) in the second of the academic years or terms; or during any nonwork period occurring during a term that does not diminish the individual's salary for the term. [1977 1st ex.s. c 292 § 18; 1975 1st ex.s. c 288 § 17; 1973 c 73 § 10; 1971 c 3 § 22.]

***Reviser's note:** The reference to "section 15 of this amendatory act" appears erroneous as "institution of higher education" is defined in section 16, codified herein as RCW 50.44.037.

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

Effective date—1973 c 73: See note following RCW 50.04.030.

50.44.060 Financing benefits paid employees of nonprofit organizations—Election to make payments in lieu of contributions. Benefits paid to employees of "nonprofit organizations" shall be financed in accordance with the provisions of this section. For the purpose of this section and RCW 50.44.070, the term "nonprofit organization" is limited to those organizations described in RCW 50.44.010, and joint accounts composed exclusively of such organizations.

(1) Any nonprofit organization which is, or becomes subject to this title on or after January 1, 1972 shall pay contributions under the provisions of RCW 50.24.010, unless it elects, in accordance with this subsection, to pay to the commissioner for the unemployment compensation fund an amount equal to the full amount of regular and additional benefits and one-half of the amount of extended benefits paid to individuals for weeks of unemployment which begin during the effective period of such election to the extent that such payments are attributable to service in the employ of such nonprofit organization.

(a) Any nonprofit organization which becomes subject to this title after January 1, 1972 may elect to become liable for payments in lieu of contributions for a period of not less than twelve months beginning with the date on which such subjectivity begins by filing a written notice of its election with the commissioner not later than thirty days immediately following the date of the determination of such subjectivity.

(b) Any nonprofit organization which makes an election in accordance with paragraph (a) of this subsection will continue to be liable for payments in lieu of contributions until it files with the commissioner a written notice terminating its election not later than thirty days prior to the beginning of the taxable year for which such termination shall first be effective.

(c) Any nonprofit organization which has been paying contributions under this title for a period subsequent to January 1, 1972 may change to a reimbursable basis by filing with the commissioner not later than thirty days prior to the beginning of any taxable year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next year.

(d) The commissioner may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.

(e) The commissioner, in accordance with such regulations as he may prescribe, shall notify each nonprofit organization of any determination which he may make of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Any nonprofit organization subject to such determination and dissatisfied with such determination

may file a request for review and redetermination with the commissioner within thirty days of the mailing of the determination to the organization. Should such request for review and redetermination be denied, the organization may, within ten days of the mailing of such notice of denial, file with the appeal tribunal a petition for hearing which shall be heard in the same manner as a petition for denial of refund. The appellate procedure prescribed by this title for further appeal shall apply to all denials of review and redetermination under this paragraph.

(2) Payments in lieu of contributions shall be made in accordance with the provisions of this section including either paragraph (a) or (b) of this subsection.

(a) At the end of each calendar quarter, the commissioner shall bill each nonprofit organization or group of such organizations which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular and additional benefits plus one-half of the amount of extended benefits paid during such quarter that is attributable to service in the employ of such organization.

(b) (i) Each nonprofit organization that has elected payments in lieu of contributions may request permission to make such payments as provided in this paragraph. Such method of payment shall become effective upon approval by the commissioner.

(ii) At the end of each calendar quarter, or at the end of such other period as determined by the commissioner, the commissioner shall bill each nonprofit organization for an amount representing one of the following:

(A) The percentage of its total payroll for the immediately preceding calendar year as the commissioner shall determine. Such determination shall be based each year on the average benefit costs attributable to service in the employ of nonprofit organizations during the preceding calendar year.

(B) For any organization which did not pay wages throughout the four calendar quarters of the preceding calendar year, such percentage of its payroll during such year as the commissioner shall determine.

(iii) At the end of each taxable year, the commissioner may modify the quarterly percentage of payroll thereafter payable by the nonprofit organization in order to minimize excess or insufficient payments.

(iv) At the end of each taxable year, the commissioner shall determine whether the total of payments for such year made by a nonprofit organization is less than, or in excess of, the total amount of regular and additional benefits plus one-half of the amount of extended benefits paid to individuals during such taxable year based on wages attributable to service in the employ of such organization. Each nonprofit organization whose total payments for such year are less than the amount so determined shall be liable for payment of the unpaid balance to the fund in accordance with paragraph (c). If the total payments exceed the amount so determined for the taxable year, all of the excess payments will be retained in the fund as part of the payments which may be required for the next taxable year, or a part of the excess may, at the discretion of the commissioner, be refunded from the fund or retained in the fund as part of

the payments which may be required for the next taxable year.

(c) Payment of any bill rendered under paragraph (a) or (b) shall be made not later than thirty days after such bill was mailed to the last known address of the non-profit organization or was otherwise delivered to it, and if not paid within such thirty days, the reimbursement payments itemized in the bill shall be deemed to be delinquent and the whole or part thereof remaining unpaid shall bear interest from and after the end of such thirty days at the rate and in the manner set forth in RCW 50.24.040.

(d) Payments made by any nonprofit organization under the provisions of this section shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization. Any deduction in violation of the provisions of this paragraph shall be unlawful.

(3) Each employer that is liable for payments in lieu of contributions shall pay to the commissioner for the fund the total amount of regular and additional benefits plus the amount of one-half of extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payments shall be determined in accordance with the provisions of paragraphs (a) through (d) of this subsection.

(a) If benefits paid to an individual are based on wages paid by one or more employers that are liable for payments in lieu of contributions and on wages paid by one or more employers who are liable for contributions, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his base-period employers.

(b) If benefits paid to an individual are based on wages paid by two or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his base-period employers. [1977 1st ex.s. c 292 § 19; 1971 c 3 § 23.]

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

50.44.090 Construction—Mandatory coverage of employees of political subdivision provisions of 1977 1st ex.s. c 292. (1) The provisions of *this act mandating coverage of employees of political subdivisions have been enacted to comply with the provisions of Public Law 94-566. Therefore, as provided in subsection (2), this mandatory feature shall be contingent on the existence of

valid and constitutional federal law requiring the Secretary of Labor to refuse to certify as approved the employment security laws of this state if such laws did not continue such mandatory coverage.

(2) In the event the mandatory coverage feature for political subdivisions ceases to be necessary for compliance with valid and constitutional federal law, then the mandatory feature of *this 1977 act shall cease to be effective as of the end of the next quarter following the quarter in which the mandatory feature contained in *this 1977 act is not necessary for such compliance.

(3) In the event mandatory coverage ceases to be effective pursuant to subsection (2), then the sections, or subsections as the case may be, of *this 1977 amandatory act shall to the extent that they apply to coverage of employees of political subdivisions be deemed nullified and the language of the sections being amended shall be deemed reinstated as the laws of this state.

(4) Benefits paid based on the services covered during the effective life of the mandatory coverage feature shall be financed as follows:

(a) If the political subdivision was financing payment of benefits on a reimbursable basis, benefits attributable to employment with the political subdivision shall be assessed to and paid by the political subdivision;

(b) If the political subdivision is a county, city, or town which elected financing pursuant to RCW 50.44.035, such political subdivision will pay "the local government tax" for all earnings by employees through the end of the calendar quarter in which the mandatory coverage is no longer effective pursuant to subsection (2);

(c) If the political subdivision was financing benefits by the contribution method it will pay contributions on wages earned by its employees through the end of the calendar quarter in which mandatory coverage is no longer effective pursuant to subsection (2). [1977 1st ex.s. c 292 § 23.]

***Reviser's note:** The terms "this act", "this 1977 act" and "this 1977 amandatory act" apparently refer to 1977 1st ex.s. c 292.

For codification of 1977 1st ex.s. c 292, see note following RCW 50.98.100.

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

Chapter 50.48

YOUTH SERVICE CORPS ACT OF 1977

Sections

50.48.010	Legislative finding and declaration.
50.48.020	Youth service corps created—Personnel—Program.
50.48.030	Qualifications of enrollees.
50.48.040	Placements—Subsistence allowances—Medical insurance.
50.48.050	"Program for youth service enrollee" defined—Agreements with public or private agencies and enrollees—Discrimination.
50.48.060	Contracts with employers—Reimbursement—Report to legislature.
50.48.070	Industrial insurance.
50.48.080	Currently employed workers not affected.
50.48.090	Minimum wage act not applicable.
50.48.100	Federal funds, grants and programs.
50.48.900	Expiration of chapter.

50.48.010 Legislative finding and declaration. The legislature finds and declares that:

(1) A high percentage of the young men and women of the state are left idle by unemployment and denied the opportunities for career exploration and development that should accompany entry into the labor force.

(2) The talent and energy of Washington's young people are a significant resource for the enhancement of human and community services and the conservation and development of natural resources in our state of Washington.

(3) Existing programs do not adequately meet the needs of such young people for meaningful work and self-development.

(4) The program for youth service of the department of employment security offers an alternative to unemployment to its young people which challenges their abilities and commitment while extending the services of local governmental and private agencies and organizations in meeting social and environmental needs.

Now, therefore, the legislature finds it necessary and in the public interest to hereby establish the program for youth service as a permanent activity of the department of employment security and to hereby provide for its operation through this youth service corps act of 1977. [1977 1st ex.s. c 83 § 1.]

50.48.020 Youth service corps created—Personnel—Program. (1) There is hereby created and established the youth service corps within the employment security department which shall include the program for youth service. The commissioner shall assign thereto such supervisory and clerical personnel as may be necessary to carry out the purposes of this chapter.

(2) The commissioner of the employment security department is hereby authorized to establish the program for youth service in which the services of full time enrollees from fourteen to twenty-four years of age, inclusive, will be mobilized to serve the needs of citizens and to resolve environmental problems through contracts with state and local governmental units and private nonprofit agencies. Such contracts shall include a component of regular performance evaluation leading to a work experience credential for the enrollee. [1977 1st ex.s. c 83 § 2.]

50.48.030 Qualifications of enrollees. The commissioner is authorized to select and enroll in the program for youth service, any person who is over fourteen years of age or who has not yet reached his or her twenty-fifth birthday, who is a resident of the state of Washington, and who is not for medical, legal, or psychological reasons incapable of a full year of service. The commissioner may prescribe such additional standards and procedures for selection of enrollees as may be necessary and in conformance with the provisions of this chapter. [1977 1st ex.s. c 83 § 3.]

50.48.040 Placements—Subsistence allowances—Medical insurance. Placements in the program for youth service shall include those assignments which

provide for dealing with social and environmental problems, and conservation and development of our natural resources.

The commissioner is authorized to establish standards for the development of placements for program for youth service enrollees with state and local units of government and private nonprofit agencies and organizations, and to assign enrollees to such placements in accordance with those standards.

A subsistence living allowance and comprehensive medical insurance shall be paid by the commissioner in accordance with the standards and limitations of the funding appropriation. [1977 1st ex.s. c 83 § 4.]

50.48.050 "Program for youth service enrollee" defined—Agreements with public or private agencies and enrollees—Discrimination. A "program for youth service enrollee" is defined as a person who has completed enrollment forms and entered into a program for youth service contract as approved by the director of the program for youth service and who has entered service and is receiving a subsistence living allowance from the employment security department. Prior to placement of the program for youth service enrollee, the commissioner shall secure a written agreement from the state or local government unit, or private nonprofit agency and the enrollee which specifies in detail the purpose, objectives, and activities to be performed by the enrollee. It shall include assurances that the conditions of this chapter are met as well as an agreement that neither party will request nor receive compensation of any form other than the minimal living allowance, listed benefits, and actual expenses incurred by the enrollee in line with his or her assignment. All parties shall agree that they will not discriminate in the providing of any of its services on the basis of race, creed, ethnic origin, sex, age, or political affiliation. [1977 1st ex.s. c 83 § 5.]

50.48.060 Contracts with employers—Reimbursement—Report to legislature. If the employment security department finds that there is an opportunity for the placement of youth in a training program that will, in the opinion of the director, assist in the development of skills and talents as set forth in RCW 50.48.010, then the director is hereby authorized to enter into any contract with any employer in the state that offers such training program or opportunities. Contracts entered into with employers other than local governmental and private nonprofit agencies shall not be exempted from the minimum wage laws of this state, but the director shall be empowered to reimburse the employer an amount not to exceed the amount that would have been paid under RCW 50.48.050. The director shall only be authorized to make said payments for a maximum period of one year.

The director shall report back to the legislature by January 15, 1978, the number of contracts entered into and the number of youth employed under this section and under RCW 50.48.050. [1977 1st ex.s. c 83 § 6.]

50.48.070 Industrial insurance. Program for youth service enrollees shall be eligible for the benefits under

Title 51 RCW, as now or hereafter amended, relating to industrial insurance.

The employment security department shall be deemed the employer and pay all premiums, including the worker's share. The employment security department will give notice of coverage under industrial insurance of all of its program for youth service enrollees to the director of the department of labor and industries prior to the occurrence of the injury or contraction of an occupational disease by any program for youth service enrollees. [1977 1st ex.s. c 83 § 7.]

50.48.080 Currently employed workers not affected.

The assignment of program for youth service enrollees shall not result in the displacement of currently employed workers, including partial displacement such as a reduction in hours of nonovertime work, wages, or other employment benefits.

State and local governments and private nonprofit agencies that participate in the program may not terminate, lay off, or reduce the working hours of any employee for the purpose of utilizing an enrollee with funds available under this chapter. [1977 1st ex.s. c 83 § 8.]

50.48.090 Minimum wage act not applicable. The provisions of chapter 49.46 RCW, the state Minimum Wage Act, shall not apply to any program for youth service enrollee serving under a youth service contract approved pursuant to the provisions of this chapter. [1977 1st ex.s. c 83 § 9.]

50.48.100 Federal funds, grants and programs. In addition to any other power, duty, or function prescribed by law or regulation, the employment security department, through the youth service corps, shall be authorized to accept federal funds and grants and implement federal programs relating to youth services or employment programs, and is further authorized to enter into agreements respecting such funds or grants.

If any part of this chapter shall be found to be in conflict with federal requirements which are a prescribed condition 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 finding or determination shall not affect the operation of the remainder of this chapter; the rules and regulations under this chapter shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1977 1st ex.s. c 83 § 10.]

50.48.900 Expiration of chapter. The provisions of this chapter shall expire on December 31, 1981. [1977 1st ex.s. c 83 § 11.]

**Chapter 50.98
CONSTRUCTION**

Sections

50.98.100 Base year wages to include remuneration paid for previously uncovered services.

50.98.110 Compliance with federal unemployment tax act—
Internal references—Interpretation.

50.98.100 Base year wages to include remuneration paid for previously uncovered services. (1) Effective with benefit years beginning on and after January 1, 1978, base year wages shall include remuneration paid for previously uncovered services: *Provided*, That the maximum benefits payable to an individual as computed for the benefit year will be reduced to the extent that benefits were paid on the basis of identical calendar quarters of the previously uncovered services with respect to a claim filed by the individual under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974. Benefits will be paid, subject to the provisions of this title, based upon the previously uncovered services to the extent that the unemployment compensation trust fund will be reimbursed for the cost thereof by the federal government under section 121 of PL 94-566 and regulations published by the secretary of labor relating thereto.

(2) For the purposes of this section, the term "previously uncovered services" means services performed before January 1, 1978, which are not employment as defined in Title 50 RCW at any time during the one year period ending December 31, 1975, and which:

(a) Is agricultural labor as defined in RCW 50.04.150 and covered by RCW 50.04.155 or domestic services as defined in and covered by RCW 50.04.160; or

(b) Is service performed by an employee of this state or a political subdivision of this state newly covered by *this 1977 amendatory act or by an employee of a nonprofit educational institution which is not an institution of higher education as provided in RCW 50.44.040(3).

(3) Any nonprofit organization or governmental entity electing to make payments in lieu of contributions shall not be liable to make payments with respect to benefits paid any individual whose base year wages include wages for previously uncovered services as defined in subsection (2) (a) and (b) of this section to the extent that the unemployment compensation fund is reimbursed for the benefits under section 121 of PL 94-566.

(4) Benefits paid any individual whose base year wages include wages for previously uncovered services as defined in subsection (2) (a) and (b) of this section shall not be charged to the experience rating account of any contribution paying employer to the extent that the unemployment compensation fund is reimbursed for the benefits under section 121 of PL 94-566. [1977 1st ex.s. c 292 § 20.]

*Reviser's note: "this 1977 amendatory act" [1977 1st ex.s. c 292] consists of amendments to RCW 50.04.116, 50.04.150, 50.04.160, 50.04.270, 50.04.300, 50.12.050, 50.16.010, 50.22.010, 50.24.160, 50.44.020, 50.44.030, 50.44.040, 50.44.050 and 50.44.060; to RCW 50.04.155, 50.04.205, 50.20.098, 50.20.113, 50.24.013, 50.44.035, 50.44.037, 50.44.090, 50.98.100 and 50.98.110; to notes following RCW 50.22.010 and 50.04.116; and to the repeal of RCW 50.04.200, 50.04.250 and 50.04.260.

Effective dates—1977 1st ex.s. c 292: See notes following RCW 50.04.116.

50.98.110 Compliance with federal unemployment tax act—Internal references—Interpretation. *This 1977 amendatory act has been enacted to meet the

requirements imposed by the federal unemployment tax act as amended by PL 94-566. Internal references in any section of *this 1977 amendatory act to the provisions of that act are intended only to apply to those provisions as they existed as of **the effective date of this 1977 amendatory act.

In view of the importance of compliance of *this 1977 amendatory act with the federal unemployment tax act, any ambiguities contained herein should be resolved in a manner consistent with the provisions of that act. Considerable weight has been given to the commentary contained in that document entitled "Draft Language and Commentary to Implement the Unemployment Compensation Amendments of 1976 PL 94-566", published by the United States department of labor, employment and training administration, and that commentary should be referred to when interpreting the provisions of *this 1977 amendatory act. [1977 1st ex.s. c 292 § 21.]

Reviser's note: *(1) "This 1977 amendatory act", see note following RCW 50.98.100.

** (2) For the effective dates of the provisions of 1977 1st ex.s. c 292, see note following RCW 50.04.116.

Title 51

INDUSTRIAL INSURANCE

Chapters

51.04	General provisions.
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Chapter 51.04

GENERAL PROVISIONS

Sections

51.04.010	Declaration of police power—Jurisdiction of courts abolished.
51.04.020	Departmental functions, generally.
51.04.030	Departmental medical aid function—Duties of director or self-insurer to keep records, pay medical bills (as amended by 1977 1st ex.s. c 239).
51.04.030	Departmental medical aid function—Duties of director or self-insurer to keep records, pay medical bills (as amended by 1977 1st ex.s. c 350).
51.04.040	Subpoena power of director—Enforcement by superior court.
51.04.060	No evasion of benefits or burdens.
51.04.070	Minor worker is sui juris—Disability payments—Guardianship expense (as amended by 1977 1st ex.s. c 323).

51.04.070	Minor worker is sui juris—Guardianship expense (as amended by 1977 1st ex.s. c 350).
51.04.085	Transmission of amounts payable to claimants, beneficiaries or suppliers to their accounts.
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51.04.100	Statutes of limitation saved.
51.04.105	Continuation of medical aid contracts.
51.04.110	Workmen's compensation advisory committee— Members, terms, compensation—Duties— Expenses (as amended by 1977 c 75).
51.04.110	Workers' compensation advisory committee—Mem- bers, terms, compensation—Duties— Expenses—Study (as amended by 1977 1st ex.s. c 350).

51.04.010 Declaration of police power—Jurisdiction of courts abolished. The common law system governing the remedy of workers against employers for injuries received in employment is inconsistent with modern industrial conditions. In practice it proves to be economically unwise and unfair. Its administration has produced the result that little of the cost of the employer has reached the worker and that little only at large expense to the public. The remedy of the worker has been uncertain, slow and inadequate. Injuries in such works, formerly occasional, have become frequent and inevitable. The welfare of the state depends upon its industries, and even more upon the welfare of its wage worker. The state of Washington, therefore, exercising herein its police and sovereign power, declares that all phases of the premises are withdrawn from private controversy, and sure and certain relief for workers, injured in their work, and their families and dependents is hereby provided regardless of questions of fault and to the exclusion of every other remedy, proceeding or compensation, except as otherwise provided in this title; and to that end all civil actions and civil causes of action for such personal injuries and all jurisdiction of the courts of the state over such causes are hereby abolished, except as in this title provided. [1977 1st ex.s. c 350 § 1; 1972 ex.s. c 43 § 1; 1961 c 23 § 51.04.010. Prior: 1911 c 74 § 1; RRS § 7673.]

51.04.020 Departmental functions, generally. The director shall:

- (1) Establish and promulgate rules governing the administration of this title;
- (2) Ascertain and establish the amounts to be paid into and out of the accident fund;
- (3) Regulate the proof of accident and extent thereof, the proof of death and the proof of relationship and the extent of dependency;
- (4) Supervise the medical, surgical, and hospital treatment to the intent that it may be in all cases efficient and up to the recognized standard of modern surgery;
- (5) Issue proper receipts for moneys received and certificates for benefits accrued or accruing;
- (6) Investigate the cause of all serious injuries and report to the governor from time to time any violations or laxity in performance of protective statutes or regulations coming under the observation of the department;

(7) Create a division of statistics within which shall be compiled such statistics as will afford reliable information upon which to base operations of all divisions under the department;

(8) Make an annual report to the governor of the workings of the department;

(9) Be empowered to enter into agreements with the appropriate agencies of other states relating to conflicts of jurisdiction where the contract of employment is in one state and injuries are received in the other state, and insofar as permitted by the Constitution and laws of the United States, to enter into similar agreements with the provinces of Canada. [1977 c 75 § 77; 1963 c 29 § 1; 1961 c 23 § 51.04.020. Prior: 1957 c 70 § 3; prior: (i) 1921 c 182 § 9; 1911 c 74 § 24; RRS § 7703. (ii) 1947 c 247 § 1, part; 1911 c 74 § 4, part; Rem. Supp. 1947 § 7676f, part.]

Severability—1963 c 29: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1963 c 29 § 2.] This applies to RCW 51.04.020.

Assignment of wage claims: RCW 49.48.040.

Electricians, installations: Chapters 19.28, 19.29 RCW.

Farm labor contractors: Chapter 19.30 RCW.

Health and safety, underground workers: Chapter 49.24 RCW.

Minimum wage act: Chapter 49.46 RCW.

Seasonal labor disputes: Chapter 49.40 RCW.

Washington Industrial Safety and Health Act: Chapter 49.17 RCW.

51.04.030 Departmental medical aid function—Duties of director or self-insurer to keep records, pay medical bills (as amended by 1977 1st ex.s. c 239). The director shall, through the division of industrial insurance, supervise the providing of prompt and efficient care and treatment, including care provided by physicians' assistants governed by the provisions of chapters 18.57A and 18.71A RCW, acting under a supervising physician to workmen injured during the course of their employment at the least cost consistent with promptness and efficiency, without discrimination or favoritism, and with as great uniformity as the various and diverse surrounding circumstances and locations of industries will permit and to that end shall, from time to time, establish and promulgate and supervise the administration of printed forms, rules, regulations, and practices for the furnishing of such care and treatment.

The director shall make and, from time to time, change as may be, and promulgate a fee bill of the maximum charges to be made by any physician, surgeon, hospital, druggist, physicians' assistants as defined in chapters 18.57A and 18.71A RCW, acting under a supervising physician or other agency or person rendering services to injured workmen. No service covered under this title shall be charged or paid at a rate or rates exceeding those specified in such fee bill, and no contract providing for greater fees shall be valid as to the excess.

The director or self-insurer, as the case may be, shall make a record of the commencement of every disability and the termination thereof and, when bills are rendered for the care and treatment of injured workmen, shall approve and pay those which conform to the promulgated rules, regulations, and practices of the director and may reject any bill or item thereof incurred in violation of the principles laid down in this section or the rules and regulations promulgated under it. [1977 1st ex.s. c 239 § 1; 1971 ex.s. c 289 § 74; 1961 c 23 § 51.04.030. Prior: (i) 1917 c 28 § 6; RRS § 7715. (ii) 1919 c 129 § 3; 1917 c 29 § 7; RRS § 7716. (iii) 1923 c 136 § 10; RRS § 7719.]

51.04.030 Departmental medical aid function—Duties of director or self-insurer to keep records, pay medical bills (as amended by 1977 1st ex.s. c 350). The director shall, through the division of industrial insurance, supervise the providing of prompt and efficient care and treatment to workers injured in during the course of their employment at the least cost consistent with promptness and efficiency, without discrimination or favoritism, and with as great uniformity as the

various and diverse surrounding circumstances and locations of industries will permit and to that end shall, from time to time, establish and promulgate and supervise the administration of printed forms, rules, regulations, and practices for the furnishing of such care and treatment.

The director shall make and, from time to time, change as may be, and promulgate a fee bill of the maximum charges to be made by any physician, surgeon, hospital, druggist, or other agency or person rendering services to injured workers. No service covered under this title shall be charged or paid at a rate or rates exceeding those specified in such fee bill, and no contract providing for greater fees shall be valid as to the excess.

The director or self-insurer, as the case may be, shall make a record of the commencement of every disability and the termination thereof and, when bills are rendered for the care and treatment of injured workers, shall approve and pay those which conform to the promulgated rules, regulations, and practices of the director and may reject any bill or item thereof incurred in violation of the principles laid down in this section or the rules and regulations promulgated under it. [1977 1st ex.s. c 350 § 2; 1971 ex.s. c 289 § 74; 1961 c 23 § 51.04.030. Prior: (i) 1917 c 28 § 6; RRS § 7715. (ii) 1919 c 129 § 3; 1917 c 29 § 7; RRS § 7716. (iii) 1923 c 136 § 10; RRS § 7719.]

Reviser's note: RCW 51.04.030 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

51.04.040 Subpoena power of director—Enforcement by superior court. The director shall have power to issue subpoenas to enforce the attendance and testimony of witnesses and the production and examination of books, papers, photographs, tapes, and records before the department in connection with any claim made to the department, or the assessment or collection of premiums. The superior court shall have the power to enforce any such subpoena by proper proceedings. [1977 1st ex.s. c 323 § 1; 1961 c 23 § 51.04.040. Prior: 1915 c 188 § 7; RRS § 7699.]

Severability—1977 1st ex.s. c 323: "If any provision of this 1977 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." [1977 1st ex.s. c 323 § 29.]

Effective date—1977 1st ex.s. c 323: "This 1977 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, 1977." [1977 1st ex.s. c 323 § 30.]

51.04.060 No evasion of benefits or burdens. No employer or worker shall exempt himself or herself from the burden or waive the benefits of this title by any contract, agreement, rule or regulation, and any such contract, agreement, rule or regulation shall be pro tanto void. [1977 1st ex.s. c 350 § 3; 1961 c 23 § 51.04.060. Prior: 1911 c 74 § 11; RRS § 7685.]

51.04.070 Minor worker is sui juris—Disability payments—Guardianship expense (as amended by 1977 1st ex.s. c 323). A minor shall be deemed sui juris for the purpose of this title, and no other person shall have any cause of action or right to compensation for an injury to such minor worker, except as expressly provided in this title, but in the event of any disability payments becoming due under this title to a minor worker, under the age of eighteen, such disability payments shall be paid to his or her parent, guardian or other person having legal custody of his or her person until he or she reaches the age of eighteen. Upon the submission of written authorization by any such parent, guardian, or other person, any such disability payments may be paid directly to such injured worker under the age of eighteen years. If it is necessary to appoint a legal guardian to receive such disability payments, there shall be paid from the accident fund or by the self-

insurer, as the case may be, toward the expenses of such guardianship a sum not to exceed three hundred dollars. [1977 1st ex.s. c 323 § 2; 1961 c 23 § 51.04.070. Prior: 1959 c 308 § 1; 1957 c 70 § 4; prior: 1927 c 310 § 5, part; 1919 c 131 § 5, part; 1911 c 74 § 6, part; RRS § 7680, part.]

Severability—Effective date—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

51.04.070 Minor worker is sui juris—Guardianship expense (as amended by 1977 1st ex.s. c 350). A minor working at an age legally permitted under the laws of this state shall be deemed sui juris for the purpose of this title, and no other person shall have any cause of action or right to compensation for an injury to such minor worker, except as expressly provided in this title, but in the event of a lump sum payment becoming due under this title to such minor worker, the management of the sum shall be within the probate jurisdiction of the courts the same as other property of minors and, in the event it is necessary to procure the appointment of a guardian to receive the money to which any minor worker is entitled under the provisions of this title, the director may allow from the accident fund toward the expenses of such guardianship, not to exceed the sum of fifty dollars in any one case: *Provided*, That in case any such minor is awarded a lump sum payment of not more than seven hundred fifty dollars, the director may make payment direct to such minor without the necessity of the appointment of a guardian. [1977 1st ex.s. c 350 § 4; 1961 c 23 § 51.04.070. Prior: 1959 c 308 § 1; 1957 c 70 § 4; prior: 1927 c 310 § 5, part; 1919 c 131 § 5, part; 1911 c 74 § 6, part; RRS § 7680, part.]

Reviser's note: RCW 51.04.070 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

51.04.085 Transmission of amounts payable to claimants, beneficiaries or suppliers to their accounts. The department may, at any time, on receipt of written authorization, transmit amounts payable to a claimant, beneficiary, or any supplier of goods or services to the account of such person in a bank or other financial institution regulated by state or federal authority. [1977 1st ex.s. c 323 § 26.]

Severability—Effective date—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

51.04.090 Effect of adjudication of applicability. If any employer shall be adjudicated to be outside the lawful scope of this title, the title shall not apply to him or her or his or her worker, or if any worker shall be adjudicated to be outside the lawful scope of this title because of remoteness of his or her work from the hazard of his or her employer's work, any such adjudication shall not impair the validity of this title in other respects, and in every such case an accounting in accordance with the justice of the case shall be had of moneys received. If the provisions for the creation of the accident fund, or the provisions of this title making the compensation to the worker provided in it exclusive of any other remedy on the part of the worker shall be held invalid the entire title shall be thereby invalidated. In other respects an adjudication of invalidity of any part of this title shall not affect the validity of the title as a whole or any other part thereof. [1977 1st ex.s. c 350 § 5; 1961 c 23 § 51.04.090. Prior: 1911 c 74 § 27; RRS § 7706.]

51.04.100 Statutes of limitation saved. If the provisions of this title relative to compensation for injuries to

or death of workers become invalid because of any adjudication, or be repealed, the period intervening between the occurrence of an injury or death, not previously compensated for under this title by lump payment or completed monthly payments, and such repeal or the rendition of the final adjudication of invalidity shall not be computed as a part of the time limited by law for the commencement of any action relating to such injury or death: *Provided*, That such action be commenced within one year after such repeal or adjudication; but in any such action any sum paid out of the accident fund to the worker on account of injury, to whom the action is prosecuted, shall be taken into account or disposed of as follows: If the defendant employer shall have paid without delinquency into the accident fund the payment provided by this title, such sums shall be credited upon the recovery as payment thereon, otherwise the sum shall not be so credited but shall be deducted from the sum collected and be paid into the said fund from which they had been previously disbursed. [1977 1st ex.s. c 350 § 6; 1961 c 23 § 51.04.100. Prior: 1911 c 74 § 28; RRS § 7707.]

51.04.105 Continuation of medical aid contracts.

The obligations of all medical aid contracts approved by the supervisor prior to the repeal of any section of this title pertaining to medical aid contracts shall continue until the expiration of such contracts notwithstanding any such repeal and all provisions of this title pertaining to the operation of medical aid contracts and the control and supervision of such contracts which were in effect at the time of such approval shall, notwithstanding any other provision of law, remain in full force and effect. [1977 1st ex.s. c 323 § 25.]

Severability—Effective date—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

51.04.110 Workmen's compensation advisory committee—Members, terms, compensation—Duties—Expenses (as amended by 1977 c 75). The director shall appoint a workmen's compensation advisory committee composed of nine members: Three representing subject workmen, three representing subject employers, one representing self-insurers, one representing workmen of self-insurers, and one ex officio member, without a vote, representing the department, who shall be chairman. This committee shall conduct a continuing study of any aspects of workmen's compensation as the committee shall determine require their consideration. The committee shall report its findings to the department or the board of industrial insurance appeals for such action as deemed appropriate. The members of the committee shall be appointed for a term of three years commencing on July 1, 1971 and the terms of the members representing the workmen and employers shall be staggered so that the director shall designate one member from each such group initially appointed whose term shall expire on June 30, 1972 and one member from each such group whose term shall expire on June 30, 1973. The members shall serve without compensation, but shall be entitled to travel expenses as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. The committee may hire such experts, if any, as it shall require to discharge its duties, and may utilize such personnel and facilities of the department and board of industrial insurance appeals as it shall need without charge. All expenses of this committee shall be paid by the department. [1977 c 75 § 78; 1975-'76 2nd ex.s. c 34 § 150; 1975 1st ex.s. c 224 § 1; 1972 ex.s. c 43 § 37; 1971 ex.s. c 289 § 67.]

51.04.110 Workers' compensation advisory committee—Members, terms, compensation—Duties—Expenses—Study (as amended by 1977 1st ex.s. c 350). The director shall appoint a workers' compensation advisory committee composed of nine members: Three representing subject workers, three representing subject employers, one

representing self-insurers, one representing workers of self-insurers, and one ex officio member, without a vote, representing the department, who shall be chairman. This committee shall conduct a continuing study of any aspects of workers' compensation as the committee shall determine require their consideration. The committee shall report its findings to the department or the board of industrial insurance appeals for such action as deemed appropriate. The members of the committee shall be appointed for a term of three years commencing on July 1, 1971 and the terms of the members representing the workers and employers shall be staggered so that the director shall designate one member from each such group initially appointed whose term shall expire on June 30, 1972 and one member from each such group whose term shall expire on June 30, 1973. The members shall serve without compensation, but shall be entitled to travel expenses as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. The committee may hire such experts, if any, as it shall require to discharge its duties, and may utilize such personnel and facilities of the department and board of industrial insurance appeals as it shall need without charge. All expenses of this committee shall be paid by the department.

The workers' compensation advisory committee created by this section shall conduct a study of the advisability and necessity of deposits by self-insurers into the reserve fund to guarantee the payments of pensions established pursuant to this title, and shall report its findings and recommendations on this study to the department, and the department shall transmit said findings and recommendations to the next regular session of the legislature. [1977 1st ex.s. c 350 § 7; 1975-'76 2nd ex.s. c 34 § 150; 1975 1st ex.s. c 224 § 1; 1972 ex.s. c 43 § 37; 1971 ex.s. c 289 § 67.]

Reviser's note: RCW 51.04.110 was amended twice during the 1977 regular and first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Effective date—1975 1st ex.s. c 224: "This 1975 amendatory act shall take effect on July 1, 1975." [1975 1st ex.s. c 224 § 20.]

Chapter 51.08 DEFINITIONS

Sections

51.08.013	"Acting in the course of employment"
51.08.015	"Amount", "payment", "premium", "contribution", "assessment".
51.08.018	"Average monthly wage"
51.08.020	"Beneficiary".
51.08.030	"Child" (as amended by 1977 1st ex.s. c 80).
51.08.030	"Child" (as amended by 1977 1st ex.s. c 323).
51.08.050	"Dependent".
51.08.070	"Employer".
51.08.160	"Permanent total disability".
51.08.175	"State fund"—"State of Washington industrial insurance fund"
51.08.178	"Wages"—Monthly wages as basis of compensation—Computation thereof (as amended by 1977 1st ex.s. c 323).
51.08.178	"Wages"—Monthly wages as basis of compensation—Computation thereof (as amended by 1977 1st ex.s. c 350).
51.08.180	"Worker".
51.08.185	"Employee".

51.08.013 "Acting in the course of employment". "Acting in the course of employment" means the worker acting at his or her employer's direction or in the furtherance of his or her employer's business which shall include time spent going to and from work on the job-site, as defined in RCW 51.32.015 and 51.36.040, insofar as such time is immediate to the actual time that the

worker is engaged in the work process in areas controlled by his or her employer, except parking areas, and it is not necessary that at the time an injury is sustained by a worker he or she be doing the work on which his or her compensation is based or that the event be within the time limits on which industrial insurance or medical aid premiums or assessments are paid. [1977 1st ex.s. c 350 § 8; 1961 c 107 § 3.]

51.08.015 "Amount", "payment", "premium", "contribution", "assessment". Wherever and whenever in any of the provisions of this title relating to any payments by an employer or worker the words "amount" and/or "amounts," "payment" and/or "payments," "premium" and/or "premiums," "contribution" and/or "contributions", and "assessment" and/or "assessments" appear said words shall be construed to mean taxes, which are the money payments by an employer or worker which are required by this title to be made to the state treasury for the accident fund, the medical aid fund, the supplemental pension fund, or any other fund created by this title. [1977 1st ex.s. c 350 § 9; 1972 ex.s. c 43 § 3; 1961 c 23 § 51.08.015. Prior: 1959 c 308 § 25.]

51.08.018 "Average monthly wage". For purposes of this title, the average monthly wage in the state shall be the average annual wage as determined under RCW 50.04.355 as now or hereafter amended divided by twelve. [1977 1st ex.s. c 323 § 3; 1971 ex.s. c 289 § 15.]

Severability—Effective date—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.08.020 "Beneficiary". "Beneficiary" means a husband, wife, child, or dependent of a worker in whom shall vest a right to receive payment under this title: *Provided*, That a husband or wife of an injured worker, living separate and apart in a state of abandonment, regardless of the party responsible therefor, for more than one year at the time of the injury or subsequently, shall not be a beneficiary. A spouse who has lived separate and apart from the other spouse for the period of two years and who has not, during that time, received, or attempted by process of law to collect, funds for maintenance, shall be deemed living in a state of abandonment. [1977 1st ex.s. c 350 § 10; 1973 1st ex.s. c 154 § 91; 1961 c 23 § 51.08.020. Prior: 1957 c 70 § 6; prior: (i) 1939 c 41 § 2, part; 1929 c 132 § 1, part; 1927 c 310 § 2, part; 1921 c 182 § 2, part; 1919 c 131 § 2, part; 1917 c 120 § 1, part; 1911 c 74 § 3, part; RRS § 7675, part. (ii) 1949 c 219 § 1, part; 1947 c 246 § 1, part; 1929 c 132 § 2, part; 1927 c 310 § 4, part; 1923 c 136 § 2, part; 1919 c 131 § 4, part; 1917 c 28 § 1, part; 1913 c 148 § 1, part; 1911 c 74 § 5, part; Rem. Supp. 1949 § 7679, part.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

51.08.030 "Child" (as amended by 1977 1st ex.s. c 80). "Child" means every natural born child, posthumous child, stepchild, child legally adopted prior to the injury, and dependent child in the legal custody and control of the claimant, all while under the age of eighteen

years, or under the age of twenty-one years while permanently enrolled at a full time course in an accredited school, and over the age of eighteen years if the child is a dependent as a result of a physical, mental, or sensory handicap. [1977 1st ex.s. c 80 § 36; 1975-'76 2nd ex.s. c 42 § 37; 1972 ex.s. c 65 § 1; 1969 ex.s. c 77 § 1; 1961 c 23 § 51.08.030. Prior: 1957 c 70 § 7; prior: (i) 1939 c 41 § 2, part; 1929 c 132 § 1, part; 1927 c 310 § 2, part; 1921 c 182 § 2, part; 1919 c 131 § 2, part; 1917 c 120 § 1, part; 1911 c 74 § 3, part; RRS § 7675, part. (ii) 1941 c 209 § 3, part; Rem. Supp. 1941 § 7679, part.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See note following RCW 4.16.190.

51.08.030 "Child" (as amended by 1977 1st ex.s. c 323). "Child" means every natural born child, posthumous child, stepchild, child legally adopted prior to the injury, and dependent child in the legal custody and control of the worker, all while under the age of eighteen years, or under the age of twenty-three years while permanently enrolled at a full time course in an accredited school, and over the age of eighteen years if the child is a dependent invalid child. [1977 1st ex.s. c 323 § 4; 1975-'76 2nd ex.s. c 42 § 37; 1972 ex.s. c 65 § 1; 1969 ex.s. c 77 § 1; 1961 c 23 § 51.08.030. Prior: 1957 c 70 § 7; prior: (i) 1939 c 41 § 2, part; 1929 c 132 § 1, part; 1927 c 310 § 2, part; 1921 c 182 § 2, part; 1919 c 131 § 2, part; 1917 c 120 § 1, part; 1911 c 74 § 3, part; RRS § 7675, part. (ii) 1941 c 209 § 3, part; Rem. Supp. 1941 § 7679, part.]

Reviser's note: RCW 51.08.030 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Severability—Effective date—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

Severability—Savings—Construction—1975-'76 2nd ex.s. c 42: See RCW 26.26.900-26.26.905.

51.08.050 "Dependent". "Dependent" means any of the following named relatives of a worker whose death results from any injury and who leaves surviving no widow, widower, or child, viz: father, mother, grandfather, grandmother, stepfather, stepmother, grandson, granddaughter, brother, sister, half-sister, half-brother, niece, nephew, who at the time of the accident are actually and necessarily dependent in whole or in part for their support upon the earnings of the worker: *Provided*, That unless otherwise provided by treaty, aliens other than father or mother, not residing within the United States at the time of the accident, are not included. [1977 1st ex.s. c 350 § 11; 1961 c 23 § 51.08.050. Prior: 1957 c 70 § 8; prior: 1939 c 41 § 2, part; 1929 c 132 § 1, part; 1927 c 310 § 2, part; 1921 c 182 § 2, part; 1919 c 131 § 2, part; 1917 c 120 § 1, part; 1911 c 74 § 3, part; RRS § 7675, part.]

51.08.070 "Employer". "Employer" means any person, body of persons, corporate or otherwise, and the legal representatives of a deceased employer, all while engaged in this state in any work covered by the provisions of this title, by way of trade or business, or who contracts with one or more workers, the essence of which is the personal labor of such worker or workers. [1977 1st ex.s. c 350 § 12; 1971 ex.s. c 289 § 1; 1961 c 23 § 51.08.070. Prior: 1957 c 70 § 9; prior: (i) 1939 c 41 § 2, part; 1929 c 132 § 1, part; 1927 c 310 § 2, part; 1921 c 182 § 2, part; 1919 c 131 § 2, part; 1917 c 120 § 1, part; 1911 c 74 § 3, part; RRS § 7675, part. (ii) 1949 c 219 § 1, part; 1947 c 246 § 1, part; 1929 c 132 § 2, part; 1927 c 310 § 4, part; 1923 c 136 § 2, part; 1919 c 131 § 4,

part; 1917 c 28 § 1, part; 1913 c 148 § 1, part; 1911 c 74 § 5, part; Rem. Supp. 1949 § 7679, part.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.08.160 "Permanent total disability". "Permanent total disability" means loss of both legs, or arms, or one leg and one arm, total loss of eyesight, paralysis or other condition permanently incapacitating the worker from performing any work at any gainful occupation. [1977 1st ex.s. c 350 § 13; 1961 c 23 § 51.08.160. Prior: 1957 c 70 § 18; prior: 1949 c 219 § 1, part; 1947 c 246 § 1, part; 1929 c 132 § 2, part; 1927 c 310 § 4, part; 1923 c 136 § 2, part; 1919 c 131 § 4, part; 1917 c 28 § 1, part; 1913 c 148 § 1, part; 1911 c 74 § 5, part; Rem. Supp. 1949 § 7679, part.]

Savings—Severability—Repeal and savings—Effective date—1923 c 136: See notes following RCW 51.04.030.

51.08.175 "State fund"—"State of Washington industrial insurance fund". "State fund" means those funds held by the state or any agency thereof for the purposes of this title. The "state of Washington industrial insurance fund" means the department when acting as the agency to insure the industrial insurance obligation of employers. The terms "state fund" and "state of Washington industrial insurance fund" shall be deemed synonymous when applied to the functions of the department connected with the insuring of employers who secure the payment of industrial insurance benefits through the state. The director shall manage the state fund and the state of Washington industrial insurance fund and shall have such powers as are necessary to carry out its functions and may reinsure any risk insured by the state fund. [1977 1st ex.s. c 323 § 5; 1972 ex.s. c 43 § 5; 1971 ex.s. c 289 § 88.]

Severability—Effective date—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.08.178 "Wages"—Monthly wages as basis of compensation—Computation thereof (as amended by 1977 1st ex.s. c 323). (1) For the purposes of this title, the monthly wages the worker was receiving from all employment at the time of injury shall be the basis upon which compensation is computed unless otherwise provided specifically in the statute concerned. In cases where the worker's wages are not fixed by the month, they shall be determined by multiplying the daily wage the worker was receiving at the time of the injury:

- (a) By five, if the worker was normally employed one day a week;
- (b) By nine, if the worker was normally employed two days a week;
- (c) By thirteen, if the worker was normally employed three days a week;
- (d) By eighteen, if the worker was normally employed four days a week;
- (e) By twenty-two, if the worker was normally employed five days a week;
- (f) By twenty-six, if the worker was normally employed six days a week;
- (g) By thirty, if the worker was normally employed seven days a week.

The term "wages" shall include the reasonable value of board, housing, fuel, or other consideration of like nature received from the employer, but shall not include overtime pay, tips, or gratuities. The daily wage shall be the hourly wage multiplied by the number of hours the worker is normally employed.

(2) In cases where a wage has not been fixed or cannot be reasonably and fairly determined, the monthly wage shall be computed on the basis of the usual wage paid other employees engaged in like or similar occupations where the wages are fixed. [1977 1st ex.s. c 323 § 6; 1971 ex.s. c 289 § 14.]

Severability—Effective date—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

51.08.178 "Wages"—Monthly wages as basis of compensation—Computation thereof (as amended by 1977 1st ex.s. c 350). (1) For the purposes of this title, the monthly wages the worker was receiving from all employment at the time of injury shall be the basis upon which compensation is computed unless otherwise provided specifically in the statute concerned. In cases where the worker's wages are not fixed by the month, they shall be determined by multiplying the daily wage the worker was receiving at the time of the injury:

- (a) By five, if the worker was normally employed one day a week;
- (b) By nine, if the worker was normally employed two days a week;
- (c) By thirteen, if the worker was normally employed three days a week;
- (d) By eighteen, if the worker was normally employed four days a week;
- (e) By twenty-two, if the worker was normally employed five days a week;
- (f) By thirty, if the worker was normally employed seven days a week.

The term "wages" shall include the reasonable value of board, housing, fuel, or other consideration of like nature received from the employer, but shall not include overtime pay, tips, or gratuities. The daily wage shall be eight times the hourly wage unless the worker is normally employed for less than eight hours.

(2) In cases where a wage has not been fixed or cannot be reasonably and fairly be determined, the monthly wage shall be computed on the basis of the usual wage paid other employees engaged in like or similar occupations where the wages are fixed. [1977 1st ex.s. c 350 § 14; 1971 ex.s. c 289 § 14.]

Reviser's note: RCW 51.08.178 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.08.180 "Worker". "Worker" means every person in this state who is engaged in the employment of an employer under this title, whether by way of manual labor or otherwise in the course of his or her employment; also every person in this state who is engaged in the employment of or who is working under an independent contract, the essence of which is his or her personal labor for an employer under this title, whether by way of manual labor or otherwise, in the course of his or her employment. [1977 1st ex.s. c 350 § 15; 1961 c 23 § 51.08.180. Prior: 1957 c 70 § 20; prior: (i) 1939 c 41 § 2, part; 1929 c 132 § 1, part; 1927 c 310 § 2, part; 1921 c 182 § 2, part; 1919 c 131 § 2, part; 1917 c 120 § 1, part; 1911 c 74 § 3, part; RRS § 7675, part. (ii) 1937 c 211 § 2; RRS § 7674-1.]

51.08.185 "Employee". "Employee" shall have the same meaning as "worker" when the context would so indicate, and shall include all officers of the state, state agencies, counties, municipal corporations, or other public corporations, or political subdivisions. [1977 1st ex.s. c 350 § 16; 1972 ex.s. c 43 § 4.]

Chapter 51.12

EMPLOYMENTS AND OCCUPATIONS COVERED

Sections

51.12.020	Employments excluded.
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51.12.050	State, county and municipal work—Liability for premiums.
51.12.060	Federal projects.
51.12.090	Intrastate and interstate commerce.
51.12.100	Maritime occupations—Segregation of payrolls—Common enterprise.
51.12.110	Elective adoption—Withdrawal (as amended by 1977 1st ex.s. c 323).
51.12.110	Elective adoption—Withdrawal (as amended by 1977 1st ex.s. c 350).
51.12.120	Extra territorial coverage—Injuries incurred outside state—Injuries incurred in employ of nondomiciled employer—Conflicts of jurisdiction—Agreements.
51.12.140	Volunteer law enforcement officers.

51.12.020 Employments excluded. The following are the only employments which shall not be included within the mandatory coverage of this title:

(1) Any person employed as a domestic servant in a private home by an employer who has less than two employees regularly employed forty or more hours a week in such employment.

(2) Any person employed to do gardening, maintenance, repair, remodeling, or similar work in or about the private home of the employer which does not exceed ten consecutive work days.

(3) A person whose work is casual and the employment is not in the course of the trade, business, or profession of his employer.

(4) Any person performing services in return for aid or sustenance only, received from any religious or charitable organization.

(5) Sole proprietors and partners.

(6) Any employee, not regularly and continuously employed by the employer in agricultural labor, whose cash remuneration paid by or due from any one employer in that calendar year for agricultural labor is less than one hundred fifty dollars. Employees not regularly and continuously employed in agricultural labor by any one employer but who are employed in agricultural labor on a seasonal basis shall come under the coverage of this title only when their cash remuneration paid or due in that calendar year exceeds one hundred fifty dollars but only as of the occurrence of that event and only as to their work for that employer.

(7) Any child under eighteen years of age employed by his parent or parents in agricultural activities on the family farm.

(8) Jockeys while participating in or preparing horses for race meets licensed by the Washington horse racing commission pursuant to chapter 67.16 RCW. [1977 1st ex.s. c 323 § 7; 1973 c 124 § 1; 1972 ex.s. c 43 § 7; 1971 ex.s. c 289 § 3; 1961 c 23 § 51.12.020. Prior: 1955 c 74 § 3; prior: 1947 c 281 § 1, part; 1943 c 210 § 1, part; 1939 c 41 § 1, part; 1937 c 211 § 1, part; 1927 c 310 § 1, part; 1921 c 182 § 1, part; 1919 c 131 § 1, part; 1911 c 74 § 2, part; Rem. Supp. 1947 § 7674, part.]

Severability—Effective date—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

51.12.035 Volunteers, inclusion for medical aid benefit purposes—"Volunteer" defined. (1) Volunteers shall be deemed employees and/or workers, as the case may be, for all purposes relating to medical aid benefits under chapter 51.36 RCW

A "volunteer" shall mean a person who performs any assigned or authorized duties for the state or any agency thereof, except emergency services workers as described by chapter 38.52 RCW, brought about by one's own free choice, receives no wages, and is registered and accepted as a volunteer by the state or any agency thereof, prior to the occurrence of the injury or the contraction of an occupational disease, for the purpose of engaging in authorized volunteer service: *Provided*, That such person shall be deemed to be a volunteer although he or she may be granted maintenance and reimbursement for actual expenses necessarily incurred in performing his or her assigned or authorized duties.

Any and all premiums or assessments due under this title on account of such volunteer service shall be the obligation of and be paid by the state or any agency thereof which has registered and accepted the services of volunteers.

(2) Volunteers may be deemed employees and/or workers, as the case may be, for all purposes relating to medical aid benefits under chapter 51.36 RCW at the option of any city, county, town, special district, municipal corporation, or political subdivision of any type, or any private nonprofit charitable organization, when any such unit of local government or any such nonprofit organization has given notice of covering all of its volunteers to the director prior to the occurrence of the injury or contraction of an occupational disease.

A "volunteer" shall mean a person who performs any assigned or authorized duties for any such unit of local government, or any such organization, except emergency services workers as described by chapter 38.52 RCW, or fire fighters covered by chapter 41.24 RCW, brought about by one's own free choice, receives no wages, and is registered and accepted as a volunteer by any such unit of local government, or any such organization which has given such notice, for the purpose of engaging in authorized volunteer services: *Provided*, That such person shall be deemed to be a volunteer although he or she may be granted maintenance and reimbursement for actual expenses necessarily incurred in performing his or her assigned or authorized duties.

Any and all premiums or assessments due under this title on account of such volunteer service for any such unit of local government, or any such organization shall be the obligation of and be paid by such organization which has registered and accepted the services of volunteers and exercised its option to secure the medical aid benefits under chapter 51.36 RCW for such volunteers. [1977 1st ex.s. c 350 § 17; 1975 1st ex.s. c 79 § 1; 1974 ex.s. c 171 § 44; 1971 c 20 § 1.]

51.12.050 State, county and municipal work—Liability for premiums. Whenever the state, county, any

municipal corporation, or other taxing district shall engage in any work, or let a contract therefor, in which workers are employed for wages, this title shall be applicable thereto. The employer's payments into the accident fund shall be made from the treasury of the state, county, municipality, or other taxing district. If the work is being done by contract, the payroll of the contractor and the subcontractor shall be the basis of computation and, in the case of contract work consuming less than one year in performance, the required payment into the accident fund shall be based upon the total payroll. The contractor and any subcontractor shall be subject to the provisions of this title, and the state for its general fund, the county, municipal corporation, or other taxing district shall be entitled to collect from the contractor the full amount payable to the accident fund and the contractor, in turn, shall be entitled to collect from the subcontractor his or her proportionate amount of the payment.

Whenever and so long as, by state law, city charter, or municipal ordinance, provision is made for employees or peace officers injured in the course of employment, such employees shall not be entitled to the benefits of this title and shall not be included in the payroll of the municipality under this title: *Provided*, That whenever any state law, city charter, or municipal ordinance only provides for payment to the employee of the difference between his or her actual wages and that received under this title such employees shall be entitled to the benefits of this title and may be included in the payroll of the municipality. [1977 1st ex.s. c 350 § 18; 1972 ex.s. c 43 § 8; 1961 c 23 § 51.12.050. Prior: 1955 c 74 § 6; prior: (i) 1923 c 136 § 5, part; 1921 c 182 § 8, part; 1915 c 188 § 6, part; 1911 c 74 § 17, part; RRS § 7692, part. (ii) 1923 c 128 § 1, part; RRS § 7674a, part.]

Savings—Severability—Repeal and savings—Effective date—1923 c 136: See notes following RCW 51.04.030.

51.12.060 Federal projects. The application of this title and related safety laws is hereby extended to all lands and premises owned or held by the United States of America, by deed or act of cession, by purchase or otherwise, which are within the exterior boundaries of the state of Washington, and to all projects, buildings, constructions, improvements, and property belonging to the United States of America, which are within the exterior boundaries of the state, in the same way and to the same extent as if said premises were under the exclusive jurisdiction of the state, and as fully as is permitted under the provisions of that act of the congress of the United States approved June 25, 1936, granting to the several states jurisdiction and authority to apply their state workers' compensation laws on all property and premises belonging to the United States of America, being 49 United States Statutes at large 1938, title 40, section 290 United States code, 1958 edition: *Provided*, That this title shall not apply to employees of the United States of America. [1977 1st ex.s. c 350 § 19; 1961 c 23 § 51.12.060. Prior: 1937 c 147 § 1; RRS § 7676-2.]

51.12.090 Intrastate and interstate commerce. The provisions of this title shall apply to employers and

workers (other than railways and their workers) engaged in intrastate and also in interstate or foreign commerce, for whom a rule of liability or method of compensation now exists under or may hereafter be established by the congress of the United States, only to the extent that the payroll of such workers may and shall be clearly separable and distinguishable from the payroll of workers engaged in interstate or foreign commerce: *Provided*, That as to workers whose payroll is not so clearly separable and distinguishable the employer shall in all cases be liable in damages for injuries to the same extent and under the same circumstances as is specified in the case of railroads in the first proviso of RCW 51.12.080: *Provided further*, That nothing in this title shall be construed to exclude goods or materials and/or workers brought into this state for the purpose of engaging in work. [1977 1st ex.s. c 350 § 20; 1972 ex.s. c 43 § 10; 1961 c 23 § 51.12.090. Prior: 1959 c 308 § 10; 1919 c 67 § 3; RRS § 7695.]

51.12.100 Maritime occupations—Segregation of payrolls—Common enterprise. The provisions of this title shall not apply to a master or member of a crew of any vessel, or to employers and workers for whom a right or obligation exists under the maritime laws for personal injuries or death of such workers.

If an accurate segregation of payrolls of workers for whom such a right or obligation exists under the maritime laws cannot be made by the employer, the director is hereby authorized and directed to fix from time to time a basis for the approximate segregation of the payrolls of employees to cover the part of their work for which no right or obligation exists under the maritime laws for injuries or death occurring in such work, and the employer, if not a self-insurer, shall pay premiums on that basis for the time such workers are engaged in their work.

Where two or more employers are simultaneously engaged in a common enterprise at one and the same site or place in maritime occupations under circumstances in which no right or obligation exists under the maritime laws for personal injuries or death of such workers, such site or place shall be deemed for the purposes of this title to be the common plant of such employers.

In the event payments are made under this title prior to the final determination under the maritime laws, such benefits shall be repaid if recovery is subsequently made under the maritime laws. [1977 1st ex.s. c 350 § 21; 1975 1st ex.s. c 224 § 3; 1972 ex.s. c 43 § 11; 1961 c 23 § 51.12.100. Prior: 1931 c 79 § 1; 1925 ex.s. c 111 § 1; RRS § 7693a.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

Ferry system employees in extrahazardous employment: RCW 47.64.070.

51.12.110 Elective adoption—Withdrawal (as amended by 1977 1st ex.s. c 323). Any employer who has in his or her employment any exempt person may file notice in writing with the director of his or her election to be subject to this title, and shall forthwith display in a conspicuous manner about his or her works and in a sufficient number of places to reasonably inform his or her workers of the fact, printed notices furnished by the department stating that he or she has so

elected. Said election shall become effective upon the filing of said notice in writing. Any worker in the employ of such applicant shall be entitled at any time within five days after the posting of said notice by his or her employer, or within five days after he or she has been employed by an employer who has elected to become subject to this title as herein provided, to give a written notice to such employer and to the department of his or her election not to become subject to this title. The employer and such of his or her workers as shall not have given such written notice of their election to the contrary shall be subject to all the provisions of this title and entitled to all of the benefits thereof: *Provided*, That those who have heretofore complied with the foregoing conditions and are carried and considered by the department as within the purview of this title shall be deemed and considered as having fully complied with its terms and shall be continued by the department as entitled to all of the benefits and subject to all of the liabilities without other or further action. Any employer who has complied with this section may withdraw his or her acceptance of liability under this title by filing written notice with the director of the withdrawal of his or her acceptance. Such withdrawal shall become effective thirty days after the filing of such notice or on the date of the termination of the security for payment of compensation, whichever last occurs. The employer shall, at least thirty days before the effective date of the withdrawal, post reasonable notice of such withdrawal where the affected worker or workers work and shall otherwise notify personally the affected workers. Withdrawal of acceptance of this title shall not affect the liability of the department or self-insurer for compensation for any injury occurring during the period of acceptance. [1977 1st ex.s. c 323 § 8; 1971 ex.s. c 289 § 85; 1961 c 23 § 51.12.110. Prior: 1959 c 308 § 11; 1929 c 132 § 5; 1923 c 136 § 6; 1911 c 74 § 19; RRS § 7696.]

Severability—Effective date—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

51.12.110 Elective adoption—Withdrawal (as amended by 1977 1st ex.s. c 350). Any employer who has in his or her employment any exempt person may file notice in writing with the director of his or her election to be subject to this title, and shall forthwith display in a conspicuous manner about his or her works and in a sufficient number of places to reasonably inform his or her workers of the fact, printed notices furnished by the department stating that he or she has so elected and stating when said election will become effective. Any worker in the employ of such applicant shall be entitled at any time within five days after the posting of said notice by his or her employer, or within five days after he or she has been employed by an employer who has elected to become subject to this title as herein provided, to give a written notice to such employer and to the department of his or her election not to become subject to this title. At the expiration of the time fixed by the notice of the employer, the employer and such of his or her workers as shall not have given such written notice of their election to the contrary shall be subject to all the provisions of this title and entitled to all of the benefits thereof: *Provided*, That those who have heretofore complied with the foregoing conditions and are carried and considered by the department as within the purview of this title shall be deemed and considered as having fully complied with its terms and shall be continued by the department as entitled to all of the benefits and subject to all of the liabilities without other or further action. Any employer who has complied with this section may withdraw his or her acceptance of liability under this title by filing written notice with the director of the withdrawal of his or her acceptance. Such withdrawal shall become effective thirty days after the filing of such notice or on the date of the termination of the security for payment of compensation, whichever last occurs. The employer shall, at least thirty days before the effective date of the withdrawal, post reasonable notice of such withdrawal where the affected worker or workers work and shall otherwise notify personally the affected workmen. Withdrawal of acceptance of this title shall not affect the liability of the department or self-insurer for compensation for any injury occurring during the period of acceptance. [1977 1st ex.s. c 350 § 22; 1971 ex.s. c 289 § 85; 1961 c 23 § 51.12.110. Prior: 1959 c 308 § 11; 1929 c 132 § 5; 1923 c 136 § 6; 1911 c 74 § 19; RRS § 7696.]

Reviser's note: RCW 51.12.110 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

~~Savings—Severability—Repeal and savings—Effective date—1923 c 136: See notes following RCW 51.04.030.~~

51.12.120 Extra territorial coverage—Injuries incurred outside state—Injuries incurred in employ of nondomiciled employer—Conflicts of jurisdiction—Agreements. (1) If a worker, while working outside the territorial limits of this state, suffers an injury on account of which he or she, or his or her beneficiaries, would have been entitled to compensation under this title had such injury occurred within this state, such worker, or his or her beneficiaries, shall be entitled to compensation under this title: *Provided*, That if at the time of such injury:

(a) His or her employment is principally localized in this state; or

(b) He or she is working under a contract of hire made in this state for employment not principally localized in any state; or

(c) He or she is working under a contract of hire made in this state for employment principally localized in another state whose workers' compensation law is not applicable to his or her employer; or

(d) He or she is working under a contract of hire made in this state for employment outside the United States and Canada.

(2) The payment or award of compensation under the workers' compensation law of another state, territory, province, or foreign nation to a worker or his or her beneficiaries otherwise entitled on account of such injury to compensation under this title shall not be a bar to a claim for compensation under this title: *Provided*, That claim under this title is timely filed. If compensation is paid or awarded under this title, the total amount of compensation paid or awarded the worker or beneficiary under such other workers' compensation law shall be credited against the compensation due the worker or beneficiary under this title.

(3) If a worker or beneficiary is entitled to compensation under this title by reason of an injury sustained in this state while in the employ of an employer who is domiciled in another state and who has neither opened an account with the department nor qualified as a self-insurer under this title, such an employer or his or her insurance carrier shall file with the director a certificate issued by the agency which administers the workers' compensation law in the state of the employer's domicile, certifying that such employer has secured the payment of compensation under the workers' compensation law of such other state and that with respect to said injury such worker or beneficiary is entitled to the benefits provided under such law. In such event:

(a) The filing of such certificate shall constitute appointment by the employer or his or her insurance carrier of the director as its agent for acceptance of the service of process in any proceeding brought by any claimant to enforce rights under this title;

(b) The director shall send to such employer or his or her insurance carrier, by registered or certified mail to the address shown on such certificate, a true copy of any notice of claim or other process served on the director by

the claimant in any proceeding brought to enforce rights under this title;

(c) (i) If such employer is a self-insurer under the workers' compensation law of such other state, such employer shall, upon submission of evidence or security, satisfactory to the director, of his or her ability to meet his or her liability to such claimant under this title, be deemed to be a qualified self-insurer under this title;

(ii) If such employer's liability under the workers' compensation law of such other state is insured, such employer's carrier, as to such claimant only, shall be deemed to be subject to this title: *Provided*, That unless its contract with said employer requires it to pay an amount equivalent to the compensation benefits provided by this title, the insurer's liability for compensation shall not exceed its liability under the workers' compensation law of such other state;

(d) If the total amount for which such employer's insurer is liable under (c)(ii) above is less than the total of the compensation to which such claimant is entitled under this title, the director may require the employer to file security satisfactory to the director to secure the payment of compensation under this title; and

(e) If such employer has neither qualified as a self-insurer nor secured insurance coverage under the workers' compensation law of another state, such claimant shall be paid compensation by the department;

(f) Any such employer shall have the same rights and obligations as other employers subject to this title and where he or she has not provided coverage or sufficient coverage to secure the compensation provided by this title to such claimant, the director may impose a penalty payable to the department of a sum not to exceed fifty percent of the cost to the department of any deficiency between the compensation provided by this title and that afforded such claimant by such employer or his or her insurance carrier if any.

(4) As used in this section:

(a) A person's employment is principally localized in this or another state when (i) his or her employer has a place of business in this or such other state and he or she regularly works at or from such place of business, or (ii) if clause (i) foregoing is not applicable, he or she is domiciled in and spends a substantial part of his or her working time in the service of his or her employer in this or such other state;

(b) "Workers' compensation law" includes "occupational disease law" for the purposes of this section.

(5) A worker whose duties require him or her to travel regularly in the service of his or her employer in this and one or more other states may agree in writing with his or her employer that his or her employment is principally localized in this or another state, and, unless such other state refuses jurisdiction, such agreement shall govern as to any injury occurring after the effective date of the agreement.

(6) The director shall be authorized to enter into agreements with the appropriate agencies of other states and provinces of Canada which administer their workers' compensation law with respect to conflicts of jurisdiction and the assumption of jurisdiction in cases where the contract of employment arises in one state or province

and the injury occurs in another, and when any such agreement has been executed and promulgated as a regulation of the department under chapter 34.04 RCW, it shall bind all employers and workers subject to this title and the jurisdiction of this title shall be governed by this regulation. [1977 1st ex.s. c 350 § 23; 1972 ex.s. c 43 § 12; 1971 ex.s. c 289 § 82.]

51.12.140 Volunteer law enforcement officers. (1) As used in this section:

(a) "Municipal corporation" means any city, town, or county authorized by law to maintain and operate a law enforcement department;

(b) "Law enforcement department" means any regularly organized police department, sheriff's department, department of public safety, or other similar organization which has as its primary purpose the enforcement of state or local penal laws and the preservation of public order, which consists wholly of volunteer law enforcement officers or a combination of volunteer and paid law enforcement officers, and which is duly organized and maintained by a municipal corporation;

(c) "Volunteer law enforcement officer" means a person who is a member of a law enforcement department and who (i) performs assigned or authorized duties for the law enforcement department by his or her own free choice; (ii) serves in a position that is not basically clerical or secretarial in nature; (iii) is registered and accepted as a volunteer by the law enforcement department; and (iv) receives no monetary remuneration other than maintenance and reimbursement for actual expenses necessarily incurred in performing assigned duties; and

(d) "Performance of duty" includes any work in and about the volunteer law enforcement officers' quarters, police station, or any other place under the direction or general orders of the officer having the authority to order a volunteer law enforcement officer to perform the work; providing law enforcement assistance; patrol; drill; and any work of an emergency nature performed in accordance with the rules of the law enforcement department.

(2) Any municipal corporation maintaining and operating a law enforcement department may elect to provide coverage under this title for all of its volunteer law enforcement officers for death or disability occurring in the performance of their duties as volunteer law enforcement officers. Any municipal corporation electing to provide the coverage shall file a written notice of coverage with the director.

(3) Coverage under this section shall be for all the applicable death, disability, and medical aid benefits of this title and shall be effective only for injuries which occur and occupational diseases which are contracted after the notice of coverage has been filed with the director.

Nothing in this subsection shall be construed to prohibit a municipal corporation from covering its volunteer law enforcement officers and other volunteers under RCW 51.12.035(2), as now or hereafter amended, for medical aid benefits only.

(4) Volunteer law enforcement officers for whom municipal corporations have given notice of coverage under this section shall be deemed workers or employees, as the case may be, and the performance of their duties shall be deemed employment or in the course of employment, as the case may be, for all purposes of this title except where expressly excluded or where the context clearly requires otherwise.

(5) All premiums, assessments, contributions, and penalties due under this title because coverage is provided under this section shall be the obligation of and be paid by the municipal corporation giving the notice of coverage to the director.

(6) Any municipal corporation electing coverage under this section shall maintain a time log in which the number of hours worked by each of its volunteer law enforcement officers is recorded. The log shall be made available for inspection upon the request of any authorized employee of the department.

(7) Any municipal corporation electing coverage under this section may withdraw the coverage by filing a written notice of the withdrawal with the director. The withdrawal shall become effective thirty days after filing the notice or on the date of the termination of the security for payment of compensation, whichever occurs later. At least thirty days before the effective date of the withdrawal, the municipal corporation shall notify each of its volunteer law enforcement officers of the withdrawal. Withdrawal of coverage under this section shall not affect the liability of the department or self-insurer for compensation for any injury occurring during the period in which coverage was provided. [1977 1st ex.s. c 113 § 1.]

Severability—1977 1st ex.s. c 113: "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." [1977 1st ex.s. c 113 § 2.] This applies to RCW 51.12.140.

Chapter 51.14 SELF-INSURERS

Sections

51.14.020	Qualification as self-insurer—Application for certification—Security deposit—Reinsurance.
51.14.030	Certification of employer as self-insurer—Requirements.

51.14.020 Qualification as self-insurer—Application for certification—Security deposit—Reinsurance. (1) An employer may qualify as a self-insurer by establishing to the director's satisfaction that he or she has sufficient financial ability to make certain the prompt payment of all compensation under this title and all assessments which may become due from such employer. Each application for certification as a self-insurer submitted by an employer shall be accompanied by payment of a fee of one hundred fifty dollars or such larger sum as the director shall find necessary for the administrative costs of evaluation of the applicant's qualifications. Any employer who has formerly been certified as a self-insurer and thereafter ceases to be so

certified may not apply for certification within three years of ceasing to have been so certified.

(2) A self-insurer may be required by the director to supplement existing financial ability by depositing in an escrow account in a depository designated by the director, money and/or corporate or governmental securities approved by the director, or a surety bond written by any company admitted to transact surety business in this state filed with the department. The money, securities, or bond shall be in an amount reasonably sufficient in the director's discretion to insure payment of reasonably foreseeable compensation and assessments but not less than the employer's normal expected annual claim liabilities and in no event less than one hundred thousand dollars. In arriving at the amount of money, securities, or bond required under this subsection, the director shall take into consideration the financial ability of the employer to pay compensation and assessments and his or her probable continuity of operation. The money, securities, or bond so deposited shall be held by the director to secure the payment of compensation by the self-insurer and to secure payment of his or her assessments. The amount of security may be increased or decreased from time to time by the director. The income from any securities deposited may be distributed currently to the self-insurer.

(3) Securities or money deposited by an employer pursuant to subsection (2) of this section shall be returned to him or her upon his or her written request provided the employer files the bond required by such subsection.

(4) If the employer seeking to qualify as a self-insurer has previously insured with the state fund, the director shall require the employer to make up his or her proper share of any deficit or insufficiency in the state fund as a condition to certification as a self-insurer.

(5) A self-insurer may reinsure a portion of his or her liability under this title with any reinsurer authorized to transact such reinsurance in this state: *Provided*, That the reinsurer may not participate in the administration of the responsibilities of the self-insurer under this title. Such reinsurance may not exceed eighty percent of the liabilities under this title. [1977 1st ex.s. c 323 § 9; 1972 ex.s. c 43 § 16; 1971 ex.s. c 289 § 27.]

Severability—Effective date—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

51.14.030 Certification of employer as self-insurer—Requirements. The director may issue a certification that an employer is qualified as a self-insurer when such employer meets the following requirements:

(1) He or she has fulfilled the requirements of RCW 51.14.020.

(2) He or she has submitted to the department a payroll report for the preceding consecutive twelve month period.

(3) He or she has submitted to the department a sworn itemized statement accompanied by an independent audit of the employer's books demonstrating to the director's satisfaction that the employer has sufficient liquid assets to meet his or her estimated liabilities as a self-insurer.

(4) He or she has demonstrated to the department the existence of the safety organization maintained by him or her within his or her establishment that indicates a record of accident prevention.

(5) He or she has submitted to the department a description of the administrative organization to be maintained by him or her to manage industrial insurance matters including:

- (a) The reporting of injuries;
- (b) The authorization of medical care;
- (c) The payment of compensation;
- (d) The handling of claims for compensation;
- (e) The name and location of each business location of the employer; and
- (f) The qualifications of the personnel of the employer to perform this service.

Such certification shall remain in effect until withdrawn by the director or surrendered by the employer with the approval of the director. An employer's qualification as a self-insurer shall become effective on the date of certification or any date specified in the certificate after the date of certification. [1977 1st ex.s. c 323 § 10; 1971 ex.s. c 289 § 28.]

Severability—Effective date—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

Chapter 51.16

ASSESSMENT AND COLLECTION OF PREMIUMS—PAYROLLS AND RECORDS

Sections

51.16.035	Classification of occupations or industries—Premium rates fixed, readjusted—Rules and regulations authorized.
51.16.042	Occupational and environmental research facility at University of Washington—Employers to share costs.
51.16.060	Quarterly report of payrolls (as amended by 1977 1st ex.s. c 323).
51.16.060	Quarterly report of payrolls (as amended by 1977 1st ex.s. c 350).
51.16.105	Expenses of safety division, how financed.
51.16.110	New businesses or resumed or continued operations.
51.16.120	Distribution of further accident cost—Recomputation of experience records of state fund employers—Adjustments in premiums or assessments of subsequent employers (as amended by 1977 1st ex.s. c 323).
51.16.120	Distribution of further accident cost (as amended by 1977 1st ex.s. c 350).
51.16.140	Premium liability of workman.
51.16.190	Limitation upon actions to collect delinquent premiums, assessments, penalties, etc.—Claims by employers waived unless brought within three years.

51.16.035 Classification of occupations or industries—Premium rates fixed, readjusted—Rules and regulations authorized. The department shall classify all occupations or industries in accordance with their degree of hazard and fix therefor basic rates of premium which shall be the lowest necessary to maintain actuarial solvency of the accident and medical aid funds in accordance with recognized insurance principles. The department shall formulate and adopt rules and regulations governing the method of premium calculation and collection and providing for a rating system consistent

with recognized principles of workers' compensation insurance which shall be designed to stimulate and encourage accident prevention and to facilitate collection. The department may annually, or at such other times as it deems necessary to maintain solvency of the funds, readjust rates in accordance with the rating system to become effective on such dates as the department may designate. [1977 1st ex.s. c 350 § 24; 1971 ex.s. c 289 § 16.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.16.042 Occupational and environmental research facility at University of Washington—Employers to share costs. Inasmuch as business, industry and labor desire to provide for testing, research, training and teaching facilities and consulting services at the University of Washington for industrial and occupational health for workers in the environmental research facility thereat, all employers shall bear their proportionate share of the cost therefor. The director may require payments to the department from all employers under this title and may make rules and regulations in connection therewith, which costs shall be paid from the department, in lieu of the previous provisions of RCW 28B.20.458. [1977 1st ex.s. c 350 § 25; 1971 ex.s. c 289 § 84; 1963 c 151 § 2.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

Occupational and environmental research facility at University of Washington: RCW 28B.20.450–28B.20.458.

51.16.060 Quarterly report of payrolls (as amended by 1977 1st ex.s. c 323). Every employer not qualifying as a self-insurer, shall insure with the state and shall, on or before the last day of January, April, July and October of each year thereafter, furnish the department with a true and accurate payroll for the period in which workers were employed by it during the preceding calendar quarter, the total amount paid to such workers during such preceding calendar quarter, and a segregation of employment in the different classes established pursuant to this title, and shall pay its premium thereon to the appropriate fund. The sufficiency of such statement shall be subject to the approval of the director: *Provided*, That the director may in his or her discretion and for the effective administration of this title require an employer in individual instances to furnish a supplementary report containing the name of each individual worker, his or her hours worked, his or her rate of pay and the class or classes in which such work was performed: *Provided further*, That in the event an employer shall furnish the department with four consecutive quarterly reports wherein each such quarterly report indicates that no premium is due the department may close the account: *Provided further*, That the department may promulgate rules and regulations in accordance with chapter 34.04 RCW to establish other reporting periods and payment due dates in lieu of reports and payments following each calendar quarter, and may also establish terms and conditions for payment of premiums and assessments based on estimated payrolls, with such payments being subject to approval as to sufficiency of the estimated payroll by the department, and also subject to appropriate periodic adjustments made by the department based on actual payroll: *And provided further*, That a temporary help company which provides workers on a temporary basis to its customers shall be considered the employer for purposes of reporting and paying premiums and assessments under this title according to the appropriate rate classifications as determined by the department: *Provided*, That the employer shall be liable for paying premiums and assessments, should the temporary help company fail to pay the premiums and assessments under this title. [1977 1st ex.s. c 323 § 11; 1973 1st ex.s. c 32 § 1; 1971 ex.s. c 289 § 76; 1965 ex.s. c 80 § 1; 1961 c 23 § 51.16.060. Prior: 1959 c 308 § 14; 1957 c 70 § 47; prior: 1947 c 247 § 1, part; Rem. Supp. 1947 § 7676c, part.]

Severability—Effective date—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

51.16.060 Quarterly report of payrolls (as amended by 1977 1st ex.s. c 350). Every employer not qualifying as a self-insurer shall insure with the state and shall, on or before the last day of January, April, July and October of each year thereafter, furnish the department with a true and accurate payroll for the period in which workers were employed by him or her during the preceding calendar quarter, the total amount paid to such workers during such preceding calendar quarter, and a segregation of employment in the different classes established pursuant to this title, and shall pay his or her premium thereon to the appropriate fund. The sufficiency of such statement shall be subject to the approval of the director: *Provided*, That the director may in his or her discretion and for the effective administration of this title require an employer in individual instances to furnish a supplementary report containing the name of each individual worker, his or her hours worked, his or her rate of pay and the class or classes in which such work was performed: *Provided further*, That in the event an employer shall furnish the department with four consecutive quarterly reports wherein each such quarterly report indicates that no premium is due the department may close the account: *And, provided further*, That the department may promulgate rules and regulations in accordance with chapter 34.04 RCW to establish other reporting periods and payment due dates in lieu of reports and payments following each calendar quarter, and may also establish terms and conditions for payment of premiums and assessments based on estimated payrolls, with such payments being subject to approval as to sufficiency of the estimated payroll by the department, and also subject to appropriate periodic adjustments made by the department based on actual payroll. [1977 1st ex.s. c 350 § 26; 1973 1st ex.s. c 32 § 1; 1971 ex.s. c 289 § 76; 1965 ex.s. c 80 § 1; 1961 c 23 § 51.16.060. Prior: 1959 c 308 § 14; 1957 c 70 § 47; prior: 1947 c 247 § 1, part; Rem. Supp. 1947 § 7676c, part.]

Reviser's note: RCW 51.16.060 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.16.105 Expenses of safety division, how financed. All expenses of the industrial safety and health division of the department pertaining to workers' compensation shall be paid by the department and financed by premiums and by assessments collected from a self-insurer as provided in this title. [1977 1st ex.s. c 350 § 27; 1973 1st ex.s. c 52 § 8; 1971 ex.s. c 289 § 86; 1961 c 23 § 51.16.105. Prior: 1953 c 218 § 2.]

Effective date—1973 1st ex.s. c 52: See note following RCW 43.22.010.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.16.110 New businesses or resumed or continued operations. Every employer who shall enter into any business, or who shall resume operations in any work or plant after the final adjustment of his or her payroll in connection therewith, or who was formerly a self-insurer and wishes to continue his or her operations subject to this title, shall, before so commencing or resuming or continuing operations, as the case may be, notify the department of such fact, accompanying such notification with a cash deposit in a sum equal to the estimated premiums for the first three full calendar months of his or her proposed operations which shall remain on deposit subject to the other provisions of this section.

The department may, in its discretion and in lieu of such deposit, accept a bond, in an amount which it deems sufficient, to secure payment of premiums due or to become due to the accident fund and medical aid fund. The deposit or posting of a bond shall not relieve the employer from paying premiums subsequently due.

Should the employer acquire sufficient assets to assure the payment of premiums due to the accident fund and the medical aid fund the department may, in its discretion, refund the deposit or cancel the bond.

If the employer ceases to be an employer under this title, the department shall, upon receipt of all payments due the accident fund and medical aid fund, or any other fund under this title, refund to the employer all deposits remaining to the employer's credit and shall cancel any bond given under this section. [1977 1st ex.s. c 323 § 12; 1971 ex.s. c 289 § 4; 1961 c 23 § 51.16.110. Prior: 1959 c 179 § 2; 1959 c 308 § 15; prior: 1957 c 70 § 50; 1951 c 236 § 4; 1947 c 247 § 1, part; Rem. Supp. 1947 § 7676c, part.]

Severability—Effective date—1977 1st ex.s. c 323: See notes following 51.04.040.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.16.120 Distribution of further accident cost—Recomputation of experience records of state fund employers—Adjustments in premiums or assessments of subsequent employers (as amended by 1977 1st ex.s. c 323). (1) Whenever a worker has a previous bodily disability from any previous injury or disease and shall suffer a further disability from injury or occupational disease in employment covered by this title and become totally and permanently disabled from the combined effects thereof or die when death was substantially accelerated by the combined effects thereof, then the experience record of an employer insured with the state fund at the time of said further injury or disease shall be charged and a self-insured employer shall pay directly into the reserve fund only the accident cost which would have resulted solely from said further injury or disease, had there been no preexisting disability, and which accident cost shall be based upon an evaluation of the disability by medical experts. The difference between the charge thus assessed to such employer at the time of said further injury or disease and the total cost of the pension reserve shall be assessed against the second injury fund. The department shall pass upon the application of this section in all cases where benefits are paid for total permanent disability or death and issue an order thereon appealable by the employer. Pending outcome of such appeal the transfer or payment shall be made as required by such order.

(2) The department shall, in cases of claims of workers sustaining injuries or occupational diseases in the employ of state fund employers, recompute the experience record of such employers when the claims of workers injured in their employ have been found to qualify for payments from the second injury fund after the regular time for computation of such experience records and the department may make appropriate adjustments in such cases including cash refunds or credits to such employers.

(3) To encourage employment of injured workers who are not reemployed by the employer at the time of injury, the department may adopt rules providing for the reduction or elimination of premiums or assessments from subsequent employers of such workers and may also adopt rules for the reduction or elimination of charges against such employers in the event of further injury to such workers in their employ. [1977 1st ex.s. c 323 § 13; 1972 ex.s. c 43 § 13; 1961 c 23 § 51.16.120. Prior: 1959 c 308 § 16; 1945 c 219 § 1; 1943 c 16 § 1; Rem. Supp. 1945 § 7676-1a.]

Severability—Effective date—1977 1st ex.s. c 323: See notes following 51.04.040.

51.16.120 Distribution of further accident cost (as amended by 1977 1st ex.s. c 350). Whenever a worker has sustained a previous

bodily infirmity or disability from any previous injury or disease and shall suffer a further injury or disease in employment covered by this title and become totally and permanently disabled from the combined effects thereof, then the experience record of the employer at the time of said further injury or disease shall be charged only with the accident cost which would have resulted solely from said further injury or disease, had there been no preexisting disability, and which accident cost shall be based upon an evaluation of the disability by medical experts. The difference between the charge thus assessed to the employer at the time of said further injury or disease and the total cost of the pension reserve shall be assessed against the second injury fund. [1977 1st ex.s. c 350 § 28; 1972 ex.s. c 43 § 13; 1961 c 23 § 51.16.120. Prior: 1959 c 308 § 16; 1945 c 219 § 1; 1943 c 16 § 1; Rem. Supp. 1945 § 7676-1a.]

Reviser's note: RCW 51.16.120 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

51.16.140 Premium liability of workman. Every employer who is not a self-insurer shall deduct from the pay of each of his or her workers one-half of the amount he or she is required to pay, for medical benefits within each risk classification. Such amount shall be periodically determined by the director and reported by him or her to all employers under this title: *Provided*, That the state governmental unit shall pay the entire amount into the medical aid fund for volunteers, as defined in RCW 51.12.035, and the state apprenticeship council shall pay the entire amount into the medical aid fund for registered apprentices or trainees, for the purposes of RCW 51.12.130. It shall be unlawful for the employer, unless specifically authorized by this title, to deduct or obtain any part of the premium or other costs required to be by him or her paid from the wages or earnings of any of his or her workers, and the making of or attempt to make any such deduction shall be a gross misdemeanor. [1977 1st ex.s. c 350 § 29; 1973 c 110 § 2; 1971 ex.s. c 289 § 77; 1971 c 20 § 2; 1961 c 23 § 51.16.140. Prior: (i) 1923 c 136 § 8, part; 1919 c 129 § 1, part; 1917 c 29 § 4, part; RRS § 7713, part. (ii) 1947 c 247 § 1, part; Rem. Supp. 1947 § 7676e, part.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

Savings—Severability—Repeal and savings—Effective date—1923 c 136: See notes following RCW 51.04.030.

51.16.190 Limitation upon actions to collect delinquent premiums, assessments, penalties, etc.—Claims by employers waived unless brought within three years. (1) Any action, other than in cases of fraud, to collect any delinquent premium, assessment, contribution, penalty, or other sum due to the department from any employer subject to this title shall be brought within three years of the date any such sum became due.

(2) Any claim by an employer for adjustment, recomputation, or alteration of any premium, assessment, contribution, penalty, or other sum thereto collected or claimed by the department shall be deemed waived if not made in writing to the supervisor of industrial insurance within three years of the date any such sum became due. [1977 1st ex.s. c 323 § 27.]

Severability—Effective date—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

Chapter 51.24

ACTIONS AT LAW FOR INJURY OR DEATH

Sections

51.24.010 Repealed.
 51.24.020 Action against employer for intentional injury.
 51.24.030 Action against third person—Election by injured person or beneficiary authorized.
 51.24.040 Action against third person—Election or recovery not bar to compensation or benefits.
 51.24.050 Action against third person—Election not to proceed assigns cause of action to department or self-insurer—Disposition of amount recovered by department or self-insurer.
 51.24.060 Action against third person—Distribution of award or settlement recovered by injured worker or beneficiary—Lien.
 51.24.070 Action against third person—Requiring injured worker or beneficiary to exercise right of election—Procedures.
 51.24.080 Action against third person—Notice of election or copy of complaint to be given department or self-insurer—Filing notice.
 51.24.090 Action against third person—Compromise or settlement less than benefits—Approval by department or self-insurer.
 51.24.100 Action against third person—Right to compensation not pleadable or admissible—Challenge to right to bring action.
 51.24.900 Application—1977 1st ex.s. c 85.

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

51.24.020 Action against employer for intentional injury. If injury or death results to a worker from the deliberate intention of his or her employer to produce such injury or death, the worker, surviving spouse, child, or dependent of the worker shall have the privilege to take under this title and also have cause of action against the employer as if this title had not been enacted, for any excess of damages over the amount received or receivable under this title. [1977 1st ex.s. c 350 § 31; 1973 1st ex.s. c 154 § 94; 1961 c 23 § 51.24.020. Prior: 1957 c 70 § 24; prior: 1927 c 310 § 5, part; 1919 c 131 § 5, part; 1911 c 74 § 6, part; RRS § 7680, part.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

51.24.030 Action against third person—Election by injured person or beneficiary authorized. If the injury to a worker is due to the negligence or wrong of a third person not in the same employ, the injured worker or beneficiary may elect to seek damages from the third person. [1977 1st ex.s. c 85 § 1.]

51.24.040 Action against third person—Election or recovery not bar to compensation or benefits. The injured worker or beneficiary shall be entitled to the full compensation and benefits provided by this title regardless of any election or recovery made under this chapter. [1977 1st ex.s. c 85 § 2.]

51.24.050 Action against third person—Election not to proceed assigns cause of action to department or self-insurer—Disposition of amount recovered by

department or self-insurer. (1) An election not to proceed against the third person operates as an assignment of the cause of action to the department or self-insurer, which may prosecute or compromise the action in its discretion in the name of the injured worker, beneficiary or legal representative.

(2) The injured worker or beneficiary shall be entitled to the remaining balance of any award or settlement recovered by the department or self-insurer after deduction of the following amounts:

(a) The expenses incurred in making the recovery including reasonable costs of legal services; and

(b) The compensation and benefits paid to or on behalf of the injured worker or beneficiary by the department or self-insurer.

(3) Thereafter no payment shall be made to or on behalf of a worker or beneficiary by the department or self-insurer for such injury until the amount of any further compensation or benefits shall equal any such remaining balance. Thereafter, such benefits shall be paid by the department or self-insurer to or on behalf of the worker or beneficiary as though no third party person claim had been made. [1977 1st ex.s. c 85 § 3.]

51.24.060 Action against third person—Distribution of award or settlement recovered by injured worker or beneficiary—Lien. (1) In an action by the injured worker or beneficiary against the third person, any award or settlement shall be distributed as follows:

(a) The costs and reasonable attorneys' fees shall be paid;

(b) The injured worker or beneficiary shall be paid twenty-five percent of the balance of the award: *Provided*, That in the event of a compromise and settlement by the parties, the injured worker or beneficiary may agree to a sum less than twenty-five percent;

(c) The department or self-insurer shall be paid the balance of the award, but only to the extent necessary to reimburse the department or self-insurer for compensation or benefits paid;

(d) Any remaining balance shall be paid to the injured worker or beneficiary;

(e) Thereafter no payment shall be made to or on behalf of a worker or beneficiary by the department or self-insurer for such injury until the amount of any further compensation or benefits shall equal any such remaining balance. Thereafter, such benefits shall be paid by the department or self-insurer to or on behalf of the worker or beneficiary as though no third party person claim had been made.

(2) The award or settlement shall be subject to a lien by the department or self-insurer for its share under this section. [1977 1st ex.s. c 85 § 4.]

51.24.070 Action against third person—Requiring injured worker or beneficiary to exercise right of election—Procedures. (1) The department or self-insurer may require the injured worker or beneficiary to exercise the right of election under this chapter by serving a written demand by registered mail, certified mail, or personal service on the worker or beneficiary.

(2) Unless an election is made within sixty days of the receipt of the demand, and unless an action is instituted or settled within the time granted by the department or self-insurer, the injured worker or beneficiary is deemed to have assigned the action to the department or self-insurer. The department or self-insurer shall allow the worker or beneficiary at least ninety days from the election to institute or settle the action.

(3) If an action which has been filed is not diligently prosecuted, the department or self-insurer may petition the court in which the action is pending for an order assigning the cause of action to the department or self-insurer. Upon a sufficient showing of a lack of diligent prosecution the court in its discretion may issue the order. [1977 1st ex.s. c 85 § 5.]

51.24.080 Action against third person—Notice of election or copy of complaint to be given department or self-insurer—Filing notice. (1) If the injured worker or beneficiary elects to seek damages from the third person, notice of the election must be given to the department or self-insurer. The notice shall be by registered mail, certified mail, or personal service. If an action is filed by the injured worker or beneficiary, a copy of the complaint must be sent by registered mail to the department or self-insurer.

(2) A return showing service of the notice on the department or self-insurer shall be filed with the court but shall not be part of the record except as necessary to give notice to the defendant of the lien imposed by section 4(2). [1977 1st ex.s. c 85 § 6.]

51.24.090 Action against third person—Compromise or settlement less than benefits—Approval by department or self-insurer. Any compromise or settlement of the third party cause of action by the injured worker or beneficiary which results in less than the entitlement under this title is void unless made with the written approval of the department or self-insurer. [1977 1st ex.s. c 85 § 7.]

51.24.100 Action against third person—Right to compensation not pleadable or admissible—Challenge to right to bring action. The fact that the injured worker or beneficiary is entitled to compensation under this title shall not be pleaded or admissible in evidence in any third party action under this chapter. Any challenge of the right to bring such action shall be made by supplemental pleadings only and shall be decided by the court as a matter of law. [1977 1st ex.s. c 85 § 8.]

51.24.900 Application—1977 1st ex.s. c 85. This 1977 amendatory act shall apply only to causes of action which arise on or after its effective date. [1977 1st ex.s. c 85 § 9.]

Reviser's note: "This 1977 amendatory act" [1977 1st ex.s. c 85] is codified as RCW 51.24.030 through 51.24.100, and 51.24.900.

Chapter 51.28

NOTICE AND REPORT OF ACCIDENT— APPLICATION FOR COMPENSATION

Sections

51.28.010	Notice of accident—Notification of workman's rights.
51.28.020	Workman's application for compensation—Physician to aid in.
51.28.040	Application for change in compensation.
51.28.055	Time limitation for filing claim for occupational disease.
51.28.060	Proof of dependency.
51.28.070	Claim files and records confidential.

51.28.010 Notice of accident—Notification of workman's rights. Whenever any accident occurs to any worker it shall be the duty of such worker or someone in his or her behalf to forthwith report such accident to his or her employer, superintendent or foreman or forewoman in charge of the work, and of the employer to at once report such accident and the injury resulting therefrom to the department pursuant to RCW 51.28-.025, as now or hereafter amended, where the worker has received treatment from a physician, has been hospitalized, disabled from work, or has died as the apparent result of such accident and injury.

Upon receipt of such notice of accident, the department shall immediately forward to the worker or his or her beneficiaries or dependents notification, in nontechnical language, of their rights under this title. [1977 1st ex.s. c 350 § 32; 1975 1st ex.s. c 224 § 4; 1971 ex.s. c 289 § 5; 1961 c 23 § 51.28.010. Prior: 1915 c 188 § 9; 1911 c 74 § 14; RRS § 7689.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.28.020 Workman's application for compensation—Physician to aid in. Where a worker is entitled to compensation under this title he or she shall file with the department or his or her self-insuring employer, as the case may be, his or her application for such, together with the certificate of the physician who attended him or her, and it shall be the duty of the physician to inform the injured worker of his or her rights under this title and to lend all necessary assistance in making this application for compensation and such proof of other matters as required by the rules of the department without charge to the worker. If application for compensation is made to a self-insuring employer, he or she shall forthwith send a copy thereof to the department. [1977 1st ex.s. c 350 § 33; 1971 ex.s. c 289 § 38; 1961 c 23 § 51.28.020. Prior: 1927 c 310 § 6, part; 1921 c 182 § 7, part; 1911 c 74 § 12, part; RRS § 7686, part.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.28.040 Application for change in compensation. If change of circumstances warrants an increase or rearrangement of compensation, like application shall be made therefor. Where the application has been granted, compensation and other benefits if in order shall be

allowed for periods of time up to sixty days prior to the receipt of such application. [1977 1st ex.s. c 199 § 1; 1961 c 23 § 51.28.040. Prior: 1927 c 310 § 6, part; 1921 c 182 § 7, part; 1911 c 74 § 12, part; RRS § 7686, part.]

51.28.055 Time limitation for filing claim for occupational disease. Claims for occupational disease or infection to be valid and compensable must be filed within one year following the date the worker had notice from a physician of the existence of his or her occupational disease, without reference to its date of origin. [1977 1st ex.s. c 350 § 34; 1961 c 23 § 51.28.055. Prior: 1959 c 308 § 18; prior: 1957 c 70 § 16, part; 1951 c 236 § 1, part.]

51.28.060 Proof of dependency. A dependent shall at all times furnish the department with proof satisfactory to the director of the nature, amount and extent of the contribution made by the deceased worker.

Proof of dependency by any beneficiary residing without the United States shall be made before the nearest United States consul or consular agency, under the seal of such consul or consular agent, and the department may cause any warrant or warrants to which such beneficiary is entitled to be transmitted to the beneficiary through the nearest United States consul or consular agent. [1977 1st ex.s. c 350 § 35; 1961 c 23 § 51.28.060. Prior: 1957 c 70 § 25; prior: (i) 1939 c 41 § 2, part; 1929 c 132 § 1, part; 1927 c 310 § 2, part; 1921 c 182 § 2, part; 1919 c 131 § 2, part; 1917 c 120 § 1, part; 1911 c 74 § 3, part; RRS § 7675, part. (ii) 1947 c 56 § 1, part; 1927 c 310 § 7, part; 1923 c 136 § 4, part; 1921 c 182 § 6, part; 1919 c 131 § 6, part; 1911 c 74 § 10, part; Rem. Supp. 1947 § 7684, part.]

51.28.070 Claim files and records confidential. Information contained in the claim files and records of injured workers, under the provisions of this title, shall be deemed confidential and shall not be open to public inspection (other than to public employees in the performance of their official duties), but representatives of a claimant, be it an individual or an organization, may review a claim file or receive specific information therefrom upon the presentation of the signed authorization of the claimant. Employers or their duly authorized representatives may review any files of their own injured workers in connection with any pending claims. Physicians treating or examining workers claiming benefits under this title, or physicians giving medical advice to the department regarding any claim may, at the discretion of the department, inspect the claim files and records of injured workers, and other persons may make such inspection, at the departments discretion, when such persons are rendering assistance to the department at any stage of the proceedings on any matter pertaining to the administration of this title. [1977 1st ex.s. c 350 § 36; 1975 1st ex.s. c 224 § 6; 1961 c 23 § 51.28.070. Prior: 1957 c 70 § 51.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

Chapter 51.32

COMPENSATION—RIGHT TO AND AMOUNT

Sections	
51.32.010	Who entitled to compensation.
51.32.015	Benefits provided for injury during course of employment and during lunch period—"Jobsite" defined—When workman lunch hours not reported.
51.32.020	Who not entitled to compensation.
51.32.030	When compensation payable to proprietor, partner or joint venturer (as amended by 1977 1st ex.s. c 323).
51.32.030	When compensation payable to employer or member of corporate employer (as amended by 1977 1st ex.s. c 350).
51.32.040	Exemption of awards—Payment of awards after death—Time limitations for filing—Confinement in institution under conviction and sentence.
51.32.050	Death benefits.
51.32.055	Determination of permanent disabilities.
51.32.060	Permanent total disability compensation—Personal attendant.
51.32.073	Additional payments for prior pensioners—Premium liability of workman and employer for additional payments (as amended by 1977 1st ex.s. c 323).
51.32.073	Additional payments for prior pensioners—Premium liability of workman and employer for additional payments (as amended by 1977 1st ex.s. c 350).
51.32.073	Additional payments for prior pensioners—Premium liability of workman and employer for additional payments (as amended by 1977 1st ex.s. c 202).
51.32.075	Adjustments in compensation or death benefits.
51.32.080	Permanent partial disability—Specified—Unspecified, rules authorized for classification thereof—Injury after permanent partial disability.
51.32.090	Temporary total disability—Partial restoration of earning power—Return to available work—When employer continues wages—Limitation.
51.32.095	Temporary total disability—Continuation of benefits during vocational rehabilitation authorized—Expert assistance—Room and board—Costs (as amended by 1977 1st ex.s. c 323).
51.32.095	Temporary total disability—Continuation of benefits during vocational rehabilitation authorized—Expert assistance—Room and board—Costs (as amended by 1977 1st ex.s. c 350).
51.32.100	When preexisting disease delays or prevents recovery.
51.32.110	Medical examination—Refusal, obstruction or non-cooperation—Traveling expenses—Pay for time lost (as amended by 1977 1st ex.s. c 323).
51.32.110	Medical examination—Refusal to submit—Traveling expenses—Pay for time lost (as amended by 1977 1st ex.s. c 350).
51.32.120	Further accident after lump sum payment.
51.32.135	Closing of claim conclusive in pension cases—Consent of spouse may be required.
51.32.150	Lump sum to beneficiary outside state.
51.32.180	Occupational diseases—Limitation.
51.32.190	Self-insurers—Notice of denial of claim, reasons—Procedure—Director authorized to investigate and settle controversies, enact rules and regulations.
51.32.210	Claims of injured workmen to be acted upon promptly—Payment—Acceptance—Effect.
51.32.220	Reduction in compensation for temporary or permanent total disability—Limitation.

51.32.010 Who entitled to compensation. Each worker injured in the course of his or her employment, or his or her family or dependents in case of death of the worker, shall receive compensation in accordance with this chapter, and, except as in this title otherwise provided, such payment shall be in lieu of any and all rights of action whatsoever against any person whomsoever:

Provided, That if an injured worker, or the surviving spouse of an injured worker shall not have the legal custody of a child for, or on account of whom payments are required to be made under this title, such payment or payments shall be made to the person or persons having the legal custody of such child but only for the periods of time after the department has been notified of the fact of such legal custody, and it shall be the duty of any such person or persons receiving payments because of legal custody of any child immediately to notify the department of any change in such legal custody. [1977 1st ex.s. c 350 § 37; 1975 1st ex.s. c 224 § 7; 1971 ex.s. c 289 § 40; 1961 c 23 § 51.32.010. Prior: 1957 c 70 § 26; prior: 1949 c 219 § 1, part; 1947 c 246 § 1, part; 1929 c 132 § 2, part; 1927 c 310 § 4, part; 1923 c 136 § 2, part; 1919 c 131 § 4, part; 1917 c 28 § 1, part; 1913 c 148 § 1, part; 1911 c 74 § 5, part; Rem. Supp. 1949 § 7679, part.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

Effective dates—**Severability**—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

Savings—**Severability**—**Repeal and savings**—**Effective date**—1923 c 136: See notes following RCW 51.04.030.

51.32.015 Benefits provided for injury during course of employment and during lunch period—**"Jobsite" defined**—**When workman lunch hours not reported**. The benefits of Title 51 RCW shall be provided to each worker receiving an injury, as defined therein, during the course of his or her employment and also during his or her lunch period as established by the employer while on the jobsite. The jobsite shall consist of the premises as are occupied, used or contracted for by the employer for the business or work process in which the employer is then engaged: *Provided*, That if a worker by reason of his or her employment leaves such jobsite under the direction, control or request of the employer and if such worker is injured during his or her lunch period while so away from the jobsite, the worker shall receive the benefits as provided herein: *And provided further*, That the employer need not consider the lunch period in his or her payroll for the purpose of reporting to the department unless the worker is actually paid for such period of time. [1977 1st ex.s. c 350 § 38; 1971 ex.s. c 289 § 41; 1961 c 107 § 1.]

Reviser's note: Compare the second sentence of RCW 51.36.040 wherein the phrase "business of work process" is used.

Effective dates—**Severability**—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.32.020 Who not entitled to compensation. If injury or death results to a worker from the deliberate intention of the worker himself or herself to produce such injury or death, or while the worker is engaged in the attempt to commit, or the commission of, a felony, neither the worker nor the widow, widower, child, or dependent of the worker shall receive any payment under this title.

An invalid child, while being supported and cared for in a state institution, shall not receive compensation under this chapter.

No payment shall be made to or for a natural child of a deceased worker and, at the same time, as the step-child of a deceased worker. [1977 1st ex.s. c 350 § 39; 1971 ex.s. c 289 § 42; 1961 c 23 § 51.32.020. Prior: 1957 c 70 § 27; prior: (i) 1927 c 310 § 5, part; 1919 c 131 § 5, part; 1911 c 74 § 6, part; RRS § 7680, part. (ii) 1949 c 219 § 1, part; 1947 c 246 § 1, part; 1929 c 132 § 2, part; 1927 c 310 § 4, part; 1923 c 136 § 2, part; 1919 c 131 § 4, part; 1917 c 28 § 1, part; 1913 c 148 § 1, part; 1911 c 74 § 5, part; Rem. Supp. 1949 § 7679, part.]

Effective dates—**Severability**—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

Savings—**Severability**—**Repeal and savings**—**Effective date**—1923 c 136: See notes following RCW 51.04.030.

51.32.030 When compensation payable to proprietor, partner or joint venturer (as amended by 1977 1st ex.s. c 323). Any sole proprietor, partner, or joint venturer who has requested coverage under this title and who shall thereafter be injured or sustain an occupational disease, shall be entitled to the benefit of this title, as and under the same circumstances and subject to the same obligations as a worker: *Provided*, That no such person or the beneficiaries thereof shall be entitled to benefits under this title unless the department has received notice in writing of such request on such forms as the department may provide prior to the date of the injury or occupational disease as the result of which claims are made: *Provided*, That the department shall have the power to cancel the personal coverage of any such person if any required payments or reports have not been made. [1977 1st ex.s. c 323 § 14; 1961 c 23 § 51.32.030. Prior: 1957 c 70 § 28; prior: 1939 c 41 § 2, part; 1929 c 132 § 1, part; 1927 c 310 § 2, part; 1921 c 182 § 2, part; 1919 c 131 § 2, part; 1917 c 120 § 1, part; 1911 c 74 § 3, part; RRS § 7675, part.]

Severability—**Effective date**—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

51.32.030 When compensation payable to employer or member of corporate employer (as amended by 1977 1st ex.s. c 350). Any individual employer or any member or officer of any corporate employer who is carried upon the payroll at a salary or wage not less than the average salary or wage named in such payroll and who shall be injured, shall be entitled to the benefit of this title, as and under the same circumstances and subject to the same obligations as a worker: *Provided*, That no such employer or the beneficiaries of such employer shall be entitled to benefits under this title unless the director, prior to the date of the injury, has received notice in writing of the fact that such employer is being carried upon the payroll prior to the date of the injury as the result of which claims for a compensation are made. [1977 1st ex.s. c 350 § 40; 1961 c 23 § 51.32.030. Prior: 1957 c 70 § 28; prior: 1939 c 41 § 2, part; 1929 c 132 § 1, part; 1927 c 310 § 2, part; 1921 c 182 § 2, part; 1919 c 131 § 2, part; 1917 c 120 § 1, part; 1911 c 74 § 3, part; RRS § 7675, part.]

Reviser's note: RCW 51.32.030 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

51.32.040 Exemption of awards—**Payment of awards after death**—**Time limitations for filing**—**Confinement in institution under conviction and sentence**. No money paid or payable under this title shall, except as provided for in RCW 74.20A.090 and 74.20A.100, prior to the issuance and delivery of the check or warrant therefor, be capable of being assigned, charged, or ever be taken in execution or attached or garnished, nor shall the same pass, or be paid, to any other person by operation of law, or by any form of voluntary assignment, or power of attorney. Any such assignment or

charge shall be void: *Provided*, That if any worker suffers a permanent partial injury, and dies from some other cause than the accident which produced such injury before he or she shall have received payment of his or her award for such permanent partial injury, or if any worker suffers any other injury before he or she shall have received payment of any monthly installment covering any period of time prior to his or her death, the amount of such permanent partial award, or of such monthly payment or both, shall be paid to the surviving spouse, or to the child or children if there is no surviving spouse: *Provided further*, That, if any worker suffers an injury and dies therefrom before he or she shall have received payment of any monthly installment covering time loss for any period of time prior to his or her death, the amount of such monthly payment shall be paid to the surviving spouse, or to the child or children if there is no surviving spouse: *Provided further*, That any application for compensation under the foregoing provisos of this section shall be filed with the department or self-insuring employer within one year of the date of death: *Provided further*, That if the injured worker resided in the United States as long as three years prior to the date of injury, such payment shall not be made to any surviving spouse or child who was at the time of the injury a nonresident of the United States: *Provided further*, That any worker receiving benefits under this title who is subsequently confined in, or who subsequently becomes eligible therefor while confined in any institution under conviction and sentence shall have all payments of such compensation canceled during the period of confinement but after discharge from the institution payment of benefits thereafter due shall be paid if such worker would, but for the provisions of this proviso, otherwise be entitled thereto: *Provided further*, That if any prisoner is injured in the course of his or her employment while participating in a work or training release program authorized by chapter 72.65 RCW and is subject to the provisions of this title, he or she shall be entitled to payments under this title subject to the requirements of chapter 72.65 RCW unless his or her participation in such program has been canceled, or unless he or she is returned to a state correctional institution, as defined in RCW 72.65.010(3), as a result of revocation of parole or new sentence: *Provided further*, That if such incarcerated worker has during such confinement period, any beneficiaries, they shall be paid directly the monthly benefits which would have been paid to him or her for himself or herself and his or her beneficiaries had he or she not been so confined. Any lump sum benefits to which the worker would otherwise be entitled but for the provisions of these provisos shall be paid on a monthly basis to his or her beneficiaries. [1977 1st ex.s. c 350 § 41; 1975 1st ex.s. c 224 § 8; 1974 ex.s. c 30 § 1. Prior: 1973 1st ex.s. c 154 § 95; 1972 ex.s. c 43 § 18; 1971 ex.s. c 289 § 43; 1965 ex.s. c 165 § 2; 1961 c 23 § 51.32.040; prior: 1957 c 70 § 29; prior: 1947 c 56 § 1, part; 1927 c 310 § 7, part; 1923 c 136 § 4, part; 1921 c 182 § 6, part; 1919 c 131 § 6, part; 1911 c 74 § 10, part; Rem. Supp. 1947 § 7684, part.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Savings—Severability—Repeal and savings—Effective date—1923 c 136: See notes following RCW 51.04.030.

51.32.050 Death benefits. (1) Where death results from the injury the expenses of burial not to exceed one thousand dollars shall be paid.

(2) Where death results from the injury, a surviving spouse of a deceased worker eligible for benefits under this title shall receive monthly for life or until remarriage the following sums: (a) If there are no children of the deceased worker, sixty percent of the wages of the deceased worker but not less than one hundred eighty-five dollars. (b) If there is one child of the deceased worker and in the legal custody of such spouse, sixty-two percent of the wages of the deceased worker but not less than two hundred twenty-two dollars. (c) If there are two children of the deceased worker and in the legal custody of such spouse, sixty-four percent of the wages of the deceased worker but not less than two hundred fifty-three dollars. (d) If there are three children of the deceased worker and in the legal custody of such spouse, sixty-six percent of the wages of the deceased worker but not less than two hundred seventy-six dollars. (e) If there are four children of the deceased worker and in the legal custody of such spouse, sixty-eight percent of the wages of the deceased worker but not less than two hundred ninety-nine dollars. (f) If there are five or more children of the deceased worker and in the legal custody of such spouse, seventy percent of the wages of the deceased worker but not less than three hundred twenty-two dollars. (g) Where the surviving spouse does not have legal custody of any child or children of the deceased worker or where after the death of the worker legal custody of such child or children passes from such surviving spouse to another, any payment on account of such child or children not in the legal custody of the surviving spouse shall be made to the person or persons having legal custody of such child or children. The amount of such payments shall be five percent of the wages of the deceased worker for each such child but such payments shall not exceed twenty-five percent. Such payments on account of such child or children shall be subtracted from the amount to which such surviving spouse would have been entitled had such surviving spouse had legal custody of all of the children and the surviving spouse shall receive the remainder after such payments on account of such child or children have been subtracted. Such payments on account of a child or children not in the legal custody of such surviving spouse shall be apportioned equally among such children.

Payments to the surviving spouse of the deceased worker shall cease at the end of the month in which remarriage occurs: *Provided*, That the monthly payment made to the child or children of the deceased worker shall from the month following such remarriage be a sum equal to five percent of the wages of the deceased worker for one child and a sum equal to five percent for each additional child up to a maximum of five such children. Payments to such child or children shall be apportioned equally among such children. Such sum shall be in place of any payments theretofore made for

the benefit of or on account of any such child or children. In no event shall the monthly payments provided in subsection (2) of this section exceed seventy-five percent of the average monthly wage in the state as computed under RCW 51.08.018.

In addition to the monthly payments above provided for, a surviving spouse or child or children of such worker if there is no surviving spouse, or dependent parent or parents, if there is no surviving spouse or child or children of any such deceased worker shall be forthwith paid the sum of eight hundred dollars, any such children, or parents to share and share alike in said sum.

Upon remarriage of a surviving spouse the monthly payments for the child or children shall continue as provided in this section, but the monthly payments to such surviving spouse shall cease at the end of the month during which remarriage occurs, and, after September 8, 1975, an otherwise eligible surviving spouse of a worker who died at any time prior to or after September 8, 1975, shall have an option of:

(i) He or she shall receive, once and for all, a lump sum of seventy-five hundred dollars or fifty percent of the then remaining annuity value of his or her pension, whichever is the lesser: *Provided*, That if the injury occurred prior to July 1, 1971, the remarriage benefit lump sum available shall be as provided in the remarriage benefit schedules then in effect.

(ii) If a surviving spouse does not choose the option specified in subsection (2)(i) of this section, to accept the lump sum payment, the remarriage of the surviving spouse of a worker shall not bar him or her from exercising the option granted in subsection (2)(i) of this section during the life of the remarriage and shall not prevent subsequent monthly payments to him or to her if the remarriage has been terminated by death or has been dissolved or annulled by valid court decree provided he or she has not previously accepted the lump sum payment provided in this section: *Provided, however*, That if the surviving spouse during the remarriage should die without having previously received the lump sum payment provided herein his or her estate shall be entitled to receive the sum of seventy-five hundred dollars or fifty percent of the then remaining annuity value of his or her pension whichever is the lesser: *Provided further*, That if it should be necessary to increase the reserves in the reserve fund or to create a new pension reserve fund as a result of *this 1976 amendatory act the amount of such increase in pension reserve in any such case shall be transferred to the reserve fund from the supplemental pension fund.

The effective date of an award of payments to a surviving spouse based upon termination of a remarriage by death, annulment, or dissolution shall be the date of the death, or the date the judicial decree of annulment or dissolution becomes final and when application for the payments has been received.

(3) If there is a child or children and no surviving spouse of the deceased worker or the surviving spouse is not eligible for benefits under this title, a sum equal to thirty-five percent of the wages of the deceased worker shall be paid monthly for one child and a sum equivalent

to fifteen percent of such wage shall be paid monthly for each additional child, the total of such sum to be divided among such children, share and share alike: *Provided*, That benefits under this subsection or subsection (4) shall not exceed sixty-five percent of the wages of the deceased worker at the time of his or her death or seventy-five percent of the average monthly wage in the state as defined in RCW 51.08.018, whichever is the lesser of the two sums.

(4) In the event a surviving spouse receiving monthly payments dies, the child or children of the deceased worker shall receive the same payment as provided in subsection (3) of this section.

(5) If the worker leaves no surviving spouse or child, but leaves a dependent or dependents, a monthly payment shall be made to each dependent equal to fifty percent of the average monthly support actually received by such dependent from the worker during the twelve months next preceding the occurrence of the injury, but the total payment to all dependents in any case shall not exceed sixty-five percent of the wages of the deceased worker at the time of the death or seventy-five percent of the average monthly wage in the state as defined in RCW 51.08.018, whichever is the lesser of the two sums. If any dependent is under the age of eighteen years at the time of the occurrence of the injury, the payment to such dependent shall cease when such dependent reaches the age of eighteen years except such payments shall continue until the dependent reaches age twenty-three while permanently enrolled at a full time course in an accredited school. The payment to any dependent shall cease if and when, under the same circumstances, the necessity creating the dependency would have ceased if the injury had not happened.

(6) If the injured worker dies during the period of permanent total disability, whatever the cause of death, leaving a surviving spouse, or child, or children, the surviving spouse or child or children shall receive benefits as if death resulted from the injury as provided in subsections (2) through (4) of this section. Upon remarriage or death of such surviving spouse the payments to such child or children shall be made as provided in subsection (2) of this section when the surviving spouse of a deceased worker remarries. [1977 1st ex.s. c 350 § 42; 1975-'76 2nd ex.s. c 45 § 2; 1975 1st ex.s. c 179 § 1; 1973 1st ex.s. c 154 § 96; 1972 ex.s. c 43 § 19; 1971 ex.s. c 289 § 7; 1965 ex.s. c 122 § 1; 1961 c 274 § 1; 1961 c 23 § 51.32.050. Prior: 1957 c 70 § 30; 1951 c 115 § 1; prior: 1949 c 219 § 1, part; 1947 c 246 § 1, part; 1929 c 132 § 2, part; 1927 c 310 § 4, part; 1923 c 136 § 2, part; 1919 c 131 § 4, part; 1917 c 28 § 1, part; 1913 c 148 § 1, part; 1911 c 74 § 5, part; Rem. Supp. 1949 § 7679, part.]

Legislative intent—1975 1st ex.s. c 179: "The legislative intent of chapter 179, Laws of 1975 1st ex. sess. (2nd SSB No. 2241) was in part to offer surviving spouses of eligible workmen two options upon remarriage; such options to be available to any otherwise eligible surviving spouse regardless of the date of death of the injured workman. Accordingly *this 1976 amendatory act is required to clarify that intent." [1975-'76 2nd ex.s. c 45 § 1.]

***Reviser's note:** "this 1976 amendatory act" [1975-'76 2nd ex.s. c 45] consists of the legislative intent section noted above and to the amendment of RCW 51.32.050 by 1975-'76 2nd ex.s. c 45 § 2.

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Savings—Severability—Repeal and savings—Effective date—1923 c 136: See notes following RCW 51.04.030.

51.32.055 Determination of permanent disabilities.

(1) One purpose of this title is to restore the injured worker as near as possible to the condition of self-support as an able-bodied worker. Benefits for permanent disability shall be determined under the director's supervision only after the injured worker's condition becomes fixed.

(2) All determinations of permanent disabilities shall be made by the department. Either the worker, employer, or self-insurer may make a request or such inquiry may be initiated by the director on his or her own motion. Such determinations shall be required in every instance where permanent disability is likely to be present. All medical reports and other pertinent information in the possession of or under the control of the employer or self-insurer shall be forwarded to the director with such requests.

(3) A request for determination of permanent disability shall be examined by the department and an order shall issue in accordance with RCW 51.52.050.

(4) The department may require that the worker present himself or herself for a special medical examination by a physician, or physicians, selected by the department, and the department may require that the worker present himself or herself for a personal interview. In such event the costs of such examination or interview, including payment of any reasonable travel expenses, shall be paid by the department or self-insurer as the case may be.

(5) The director may establish a medical bureau within the department to perform medical examinations under this section. Physicians hired or retained for this purpose shall be grounded in industrial medicine and in the assessment of industrial physical impairment. Self-insurers shall bear a proportionate share of the cost of such medical bureau in a manner to be determined by the department.

(6) Where dispute arises from the handling of any claims prior to the condition of the injured worker becoming fixed, the worker, employer, or self-insurer may request the department to resolve the dispute or the director may initiate an inquiry on his or her own motion. In such cases the department shall proceed as provided in this section and an order shall issue in accordance with RCW 51.52.050. [1977 1st ex.s. c 350 § 43; 1971 ex.s. c 289 § 46.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.32.060 Permanent total disability compensation—Personal attendant. When the supervisor of industrial insurance shall determine that permanent total disability results from the injury, the worker shall receive monthly during the period of such disability:

(1) If married at the time of injury, sixty-five percent of his or her wages but not less than two hundred fifteen dollars per month.

(2) If married with one child at the time of injury, sixty-seven percent of his or her wages but not less than two hundred fifty-two dollars per month.

(3) If married with two children at the time of injury, sixty-nine percent of his or her wages but not less than two hundred eighty-three dollars.

(4) If married with three children at the time of injury, seventy-one percent of his or her wages but not less than three hundred six dollars per month.

(5) If married with four children at the time of injury, seventy-three percent of his or her wages but not less than three hundred twenty-nine dollars per month.

(6) If married with five or more children at the time of injury, seventy-five percent of his or her wages but not less than three hundred fifty-two dollars per month.

(7) If unmarried at the time of the injury, sixty percent of his or her wages but not less than one hundred eighty-five dollars per month.

(8) If unmarried with one child at the time of injury, sixty-two percent of his or her wages but not less than two hundred twenty-two dollars per month.

(9) If unmarried with two children at the time of injury, sixty-four percent of his or her wages but not less than two hundred fifty-three dollars per month.

(10) If unmarried with three children at the time of injury, sixty-six percent of his or her wages but not less than two hundred seventy-six dollars per month.

(11) If unmarried with four children at the time of injury, sixty-eight percent of his or her wages but not less than two hundred ninety-nine dollars per month.

(12) If unmarried with five or more children at the time of injury, seventy percent of his or her wages but not less than three hundred twenty-two dollars per month.

(13) For any period of time where both husband and wife are entitled to compensation as temporarily or totally disabled workers, only that spouse having the higher wages of the two shall be entitled to claim their child or children for compensation purposes.

(14) In case of permanent total disability, if the character of the injury is such as to render the worker so physically helpless as to require the hiring of the services of an attendant, the department shall make monthly payments to such attendant for such services as long as such requirement continues, but such payments shall not obtain or be operative while the worker is receiving care under or pursuant to the provisions of chapters 51.36 and 51.40 RCW.

(15) Should any further accident result in the permanent total disability of an injured worker, he or she shall receive the pension to which he or she would be entitled, notwithstanding the payment of a lump sum for his or her prior injury.

(16) In no event shall the monthly payments provided in this section exceed seventy-five percent of the average monthly wage in the state as computed under the provisions of RCW 51.08.018, except that this limitation shall not apply to the payments provided for in subsection (14) of this section. [1977 1st ex.s. c 350 § 44; 1975 1st ex.s. c 224 § 9; 1973 c 147 § 1; 1972 ex.s. c 43 § 20; 1971 ex.s. c 289 § 8; 1965 ex.s. c 122 § 2; 1961 c 274 § 2; 1961 c 23 § 51.32.060. Prior: 1957 c 70 § 31; 1951 c

115 § 2; prior: 1949 c 219 § 1, part; 1947 c 246 § 1, part; 1929 c 132 § 2, part; 1927 c 310 § 4, part; 1923 c 136 § 2, part; 1919 c 131 § 4, part; 1917 c 28 § 1, part; 1913 c 148 § 1, part; 1911 c 74 § 5, part; Rem. Supp. 1949 § 7679, part.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

Savings—Severability—Repeal and savings—Effective date—1923 c 136: See notes following RCW 51.04.030.

51.32.073 Additional payments for prior pensioners—Premium liability of workman and employer for additional payments (as amended by 1977 1st ex.s. c 323). Each employer shall retain from the earnings of each worker that amount as shall be fixed from time to time by the director, the basis for measuring said amount to be determined by the director. The money so retained shall be matched in an equal amount by each employer, and all such moneys shall be remitted to the department in such manner and at such intervals as the department directs and shall be placed in the supplemental pension fund: *Provided*, That the state apprenticeship council shall pay the entire amount into the supplemental pension fund for registered apprentices or trainees during their participation in supplemental and related instruction classes. The moneys so collected shall be used exclusively for the additional payments from the supplemental pension fund prescribed in this title and for the amount of any increase payable under the provisions of RCW 51.32.075 as now or hereafter amended and shall be no more than necessary to make such payments on a current basis. The department may require a self-insurer to make any additional payments which are payable from the supplemental pension fund and thereafter such self-insurer shall be reimbursed therefrom. [1977 1st ex.s. c 323 § 15; 1975-'76 2nd ex.s. c 19 § 1. Prior: 1975 1st ex.s. c 286 § 1; 1975 1st ex.s. c 224 § 10; 1973 c 110 § 3; 1972 ex.s. c 43 § 24; 1971 ex.s. c 289 § 17.]

Severability—Effective date—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

51.32.073 Additional payments for prior pensioners—Premium liability of workman and employer for additional payments (as amended by 1977 1st ex.s. c 350). Each employer shall retain from the earnings of each worker that amount as shall be fixed from time to time by the director, the basis for measuring said amount to be determined by the director. The money so retained shall be matched in an equal amount by each employer, and all such moneys shall be remitted to the department in such manner and at such intervals as the department directs and shall be placed in the supplemental pension fund: *Provided*, That the state apprenticeship council shall pay the entire amount into the supplemental pension fund for registered apprentices or trainees during their participation in supplemental and related instruction classes. The moneys so collected shall be used exclusively for the additional payments from the supplemental pension fund prescribed in this title and for the amount of any increase payable under the provisions of RCW 51.32.075 and shall be no more than necessary to make such payments on a current basis. [1977 1st ex.s. c 350 § 45; 1975-'76 2nd ex.s. c 19 § 1. Prior: 1975 1st ex.s. c 286 § 1; 1975 1st ex.s. c 224 § 10; 1973 c 110 § 3; 1972 ex.s. c 43 § 24; 1971 ex.s. c 289 § 17.]

51.32.073 Additional payments for prior pensioners—Premium liability of workman and employer for additional payments (as amended by 1977 1st ex.s. c 202). Each employer shall retain from the earnings of each workman that amount as shall be fixed from time to time by the director, the basis for measuring said amount to be determined by the director. The money so retained shall be matched in an equal amount by each employer, and all such moneys shall be remitted to the department in such manner and at such intervals as the department directs and shall be placed in the supplemental pension fund: *Provided*, That the state apprenticeship council shall pay the entire amount into the supplemental pension fund for registered apprentices or trainees during their participation in supplemental and related instruction classes. The moneys so collected shall be used exclusively for the additional payments from the supplemental pension fund prescribed in this title and for the amount of any increase payable under the provisions of RCW 51.32.075, as now or hereafter amended, and shall be no more than necessary to make such payments on a current basis. [1977 1st ex.s. c 202 § 1; 1975-'76 2nd ex.s. c 19 § 1. Prior: 1975 1st ex.s. c

286 § 1; 1975 1st ex.s. c 224 § 10; 1973 c 110 § 3; 1972 ex.s. c 43 § 24; 1971 ex.s. c 289 § 17.]

Reviser's note: RCW 51.32.073 was amended three times during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

51.32.075 Adjustments in compensation or death benefits. Effective July 1 of each year, the compensation or death benefits payable pursuant to the provisions of this chapter, for temporary total disability, permanent total disability or death arising out of injuries or occupational diseases shall be adjusted as follows:

(1) For those whose right to compensation was established on or after July 1, 1971, and before July 1, 1975, an initial adjustment shall be determined by multiplying the amount of compensation to which they are entitled by a fraction, the denominator of which shall be the maximum amount of compensation payable for the fiscal year in which such person's right to compensation was established, and the numerator of which shall be the maximum amount of compensation payable on September 21, 1977.

(2) For those whose right to compensation was established on or after July 1, 1975, and before July 1, 1977, an initial adjustment shall be determined by multiplying the amount of compensation to which they are entitled by a fraction, the denominator of which shall be the maximum amount of compensation payable for the fiscal year in which such person's right to compensation was established, and the numerator of which shall be the maximum amount of compensation payable on September 21, 1977. [1977 1st ex.s. c 202 § 2; 1975 1st ex.s. c 286 § 2.]

51.32.080 Permanent partial disability—Specified—Unspecified, rules authorized for classification thereof—Injury after permanent partial disability. (1) For the permanent partial disabilities here specifically described, the injured worker shall receive compensation as follows:

LOSS BY AMPUTATION

Of leg above the knee joint with short thigh stump (3" or less below the tuberosity of ischium)	\$18,000.00
Of leg at or above knee joint with functional stump	16,200.00
Of leg below knee joint	14,400.00
Of leg at ankle (Syme)	12,600.00
Of foot at mid-metatarsals	6,300.00
Of great toe with resection of metatarsal bone	3,780.00
Of great toe at metatarsophalangeal joint	2,268.00
Of great toe at interphalangeal joint	1,200.00
Of lesser toe (2nd to 5th) with resection of metatarsal bone	1,380.00
Of lesser toe at metatarsophalangeal joint	672.00
Of lesser toe at proximal interphalangeal joint	498.00
Of lesser toe at distal interphalangeal joint	126.00

Of arm at or above the deltoid insertion or by disarticulation at the shoulder . . .	18,000.00
Of arm at any point from below the deltoid insertion to below the elbow joint at the insertion of the biceps tendon . . .	17,100.00
Of arm at any point from below the elbow joint distal to the insertion of the biceps tendon to and including mid-metacarpal amputation of the hand .	16,200.00
Of all fingers except the thumb at metacarpophalangeal joints	9,720.00
Of thumb at metacarpophalangeal joint or with resection of carpometacarpal bone	6,480.00
Of thumb at interphalangeal joint	3,240.00
Of index finger at metacarpophalangeal joint or with resection of metacarpal bone	4,050.00
Of index finger at proximal interphalangeal joint	3,240.00
Of index finger at distal interphalangeal joint	1,782.00
Of middle finger at metacarpophalangeal joint or with resection of metacarpal bone	3,240.00
Of middle finger at proximal interphalangeal joint	2,592.00
Of middle finger at distal interphalangeal joint	1,458.00
Of ring finger at metacarpophalangeal joint or with resection of metacarpal bone	1,620.00
Of ring finger at proximal interphalangeal joint	1,296.00
Of ring finger at distal interphalangeal joint	810.00
Of little finger at metacarpophalangeal joint or with resection of metacarpal bone	810.00
Of little finger at proximal interphalangeal joint	648.00
Of little finger at distal interphalangeal joint	324.00

MISCELLANEOUS

Loss of one eye by enucleation	7,200.00
Loss of central visual acuity in one eye . . .	6,000.00
Complete loss of hearing in both ears . . .	14,400.00
Complete loss of hearing in one ear	2,400.00

(2) Compensation for amputation of a member or part thereof at a site other than those above specified, and for loss of central visual acuity and loss of hearing other than complete, shall be in proportion to that which such other amputation or partial loss of visual acuity or hearing most closely resembles and approximates. Compensation for any other permanent partial disability not involving amputation shall be in the proportion which the extent of such other disability, called unspecified disability, shall bear to that above specified, which most closely resembles and approximates in degree of disability such other disability, compensation for any other unspecified permanent partial disability shall be in an amount as measured and compared to total bodily impairment: *Provided*, That in order to reduce litigation

and establish more certainty and uniformity in the rating of unspecified permanent partial disabilities, the department shall enact rules having the force of law classifying such disabilities in the proportion which the department shall determine such disabilities reasonably bear to total bodily impairment. In enacting such rules, the department shall give consideration to, but need not necessarily adopt, any nationally recognized medical standards or guides for determining various bodily impairments. For purposes of calculating monetary benefits, the amount payable for total bodily impairment shall be deemed to be thirty thousand dollars: *Provided*, That the total compensation for all unspecified permanent partial disabilities resulting from the same injury shall not exceed the sum of thirty thousand dollars: *Provided further*, That in case permanent partial disability compensation is followed by permanent total disability compensation, any portion of the permanent partial disability compensation which exceeds the amount that would have been paid the injured worker if permanent total disability compensation had been paid in the first instance, shall be deducted from the pension reserve of such injured worker and his or her monthly compensation payments shall be reduced accordingly.

(3) Should a worker receive an injury to a member or part of his or her body already, from whatever cause, permanently partially disabled, resulting in the amputation thereof or in an aggravation or increase in such permanent partial disability but not resulting in the permanent total disability of such worker, his or her compensation for such partial disability shall be adjudged with regard to the previous disability of the injured member or part and the degree or extent of the aggravation or increase of disability thereof.

(4) When the compensation provided for in subsections (1) and (2) exceeds three times the average monthly wage in the state as computed under the provisions of RCW 51.08.018, payment shall be made in monthly payments in accordance with the schedule of temporary total disability payments set forth in RCW 51.32.090 until such compensation is paid to the injured worker in full, except that the first monthly payment shall be in an amount equal to three times the average monthly wage in the state as computed under the provisions of RCW 51.08.018, and interest shall be paid at the rate of six percent on the unpaid balance of such compensation commencing with the second monthly payment: *Provided*, That upon application of the injured worker the monthly payment may be converted, in whole or in part, into a lump sum payment, in which event the monthly payment shall cease in whole or in part. Such conversion may be made only upon written application of the injured worker to the department and shall rest in the discretion of the department depending upon the merits of each individual application: *Provided further*, That upon death of a worker all unpaid installments accrued, less interest, shall be paid in a lump sum amount to the widow or widower, or if there is no widow or widower surviving, to the dependent children of such claimant, and if there are no such dependent children, then to such other dependents as defined by this title. [1977 1st ex.s. c 350 § 46; 1972 ex.s. c 43 § 21; 1971

ex.s. c 289 § 10; 1965 ex.s. c 165 § 1; 1961 c 274 § 3; 1961 c 23 § 51.32.080. Prior: 1957 c 70 § 32; prior: 1951 c 115 § 4; 1949 c 219 § 1, part; 1947 c 246 § 1, part; 1929 c 132 § 2, part; 1927 c 310 § 4, part; 1923 c 136 § 2, part; 1919 c 131 § 4, part; 1917 c 28 § 1, part; 1913 c 148 § 1, part; 1911 c 74 § 5, part; Rem. Supp. 1949 § 7679, part.]

Savings—Severability—Repeal and savings—Effective date—1923 c 136: See notes following RCW 51.04.030.

51.32.090 Temporary total disability—Partial restoration of earning power—Return to available work—When employer continues wages—Limitation. (1) When the total disability is only temporary, the schedule of payments contained in subdivisions (1) through (13) of RCW 51.32.060 as amended shall apply, so long as the total disability continues.

(2) Any compensation payable under this section for children not in the custody of the injured worker as of the date of injury shall be payable only to such person as actually is providing the support for such child or children pursuant to the order of a court of record providing for support of such child or children.

(3) As soon as recovery is so complete that the present earning power of the worker, at any kind of work, is restored to that existing at the time of the occurrence of the injury, the payments shall cease. If and so long as the present earning power is only partially restored, the payments shall continue in the proportion which the new earning power shall bear to the old. No compensation shall be payable unless the loss of earning power shall exceed five percent.

(4) Whenever an employer requests that a worker who is entitled to temporary total disability under this chapter be certified by a physician as able to perform available work other than his or her usual work, the employer shall furnish to the physician, with a copy to the worker, a statement describing the available work in terms that will enable the physician to relate the physical activities of the job to the worker's disability. The physician shall then determine whether the worker is physically able to perform the work described. If the worker is released by his or her physician for said work, and the work thereafter comes to an end before the worker's recovery is sufficient in the judgment of his or her physician to permit him or her to return to his or her usual job, or to perform other available work, the worker's temporary total disability payments shall be resumed. Should the available work described, once undertaken by the worker, impede his or her recovery to the extent that in the judgment of his or her physician he or she should not continue to work, the worker's temporary total disability payments shall be resumed when the worker ceases such work.

Once the worker returns to work under the terms of this subsection, he or she shall not be assigned by the employer to work other than the available work described without the worker's written consent, or without prior review and approval by the worker's physician.

In the event of any dispute as to the worker's ability to perform the available work offered by the employer, the department shall make the final determination.

(5) No worker shall receive compensation for or during the day on which injury was received or the three days following the same, unless his or her disability shall continue for a period of fourteen consecutive calendar days from date of injury.

(6) Should a worker suffer a temporary total disability and should his or her employer at the time of the injury continue to pay him or her the wages which he or she was earning at the time of such injury, such injured worker shall not receive any payment provided in subsection (1) of this section during the period his or her employer shall so pay such wages.

(7) In no event shall the monthly payments provided in this section exceed seventy-five percent of the average monthly wage in the state as computed under the provisions of RCW 51.08.018. [1977 1st ex.s. c 350 § 47; 1975 1st ex.s. c 235 § 1; 1972 ex.s. c 43 § 22; 1971 ex.s. c 289 § 11; 1965 ex.s. c 122 § 3; 1961 c 274 § 4; 1961 c 23 § 51.32.090. Prior: 1957 c 70 § 33; 1955 c 74 § 8; prior: 1951 c 115 § 3; 1949 c 219 § 1, part; 1947 c 246 § 1, part; 1929 c 132 § 2, part; 1927 c 310 § 4, part; 1923 c 136 § 2, part; 1919 c 131 § 4, part; 1917 c 28 § 1, part; 1913 c 148 § 1, part; 1911 c 74 § 5, part; Rem. Supp. 1949 § 7679, part.]

Savings—Severability—Repeal and savings—Effective date—1923 c 136: See notes following RCW 51.04.030.

51.32.095 Temporary total disability—Continuation of benefits during vocational rehabilitation authorized—Expert assistance—Room and board—Costs (as amended by 1977 1st ex.s. c 323). One of the primary purposes of this title is the restoration of the injured worker to gainful employment. To this end, the department shall utilize the services of individuals whose experience, training, and interests in vocational rehabilitation and retraining qualify them to lend expert assistance to the supervisor of industrial insurance in such programs of vocational rehabilitation or retraining as may be reasonable to qualify the worker for employment consistent with his or her physical and mental status. Where, after evaluation and recommendation by such individuals and prior to final evaluation of the worker's permanent disability and in the sole opinion of the supervisor, vocational rehabilitation or retraining is both necessary and likely to restore the injured worker to a form of gainful employment, the supervisor may, in his or her sole discretion, pay or, if the employer is a self-insurer, direct the self-insurer to pay the cost of books, tuition, fees, supplies, equipment, and transportation for any such worker in an amount not to exceed one thousand five hundred dollars in any calendar year, and continue the temporary total disability compensation under RCW 51.32.090 while the worker is actively and successfully undergoing a formal program of vocational rehabilitation or retraining: *Provided*, That such compensation or payment of such vocational rehabilitation or retraining expenses may not be authorized for a period of more than fifty-two weeks: *Provided further*, That such period may, in the sole discretion of the supervisor after his or her review, be extended for an additional fifty-two weeks or portion thereof by written order of the supervisor.

In cases where the worker is required to reside away from his or her customary residence, the reasonable cost of board and lodging shall also be paid. Said costs shall be chargeable to the employer's cost experience or shall be paid by the self-insurer as the case may be. [1977 1st ex.s. c 323 § 16; 1972 ex.s. c 43 § 23; 1971 ex.s. c 289 § 12.]

Severability—Effective date—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

51.32.095 Temporary total disability—Continuation of benefits during vocational rehabilitation authorized—Expert assistance—Room and board—Costs (as amended by 1977 1st ex.s. c 350). One of the primary purposes of this title is the restoration of the injured worker to gainful employment. To this end, the department shall utilize the services of individuals whose experience, training, and interests in vocational rehabilitation and retraining qualify them to lend expert assistance to the supervisor of industrial insurance in such programs of

vocational rehabilitation or retraining as may be reasonable to qualify the worker for employment consistent with his or her physical and mental status. Where, after evaluation and recommendation by such individuals and prior to final evaluation of the worker's permanent disability and in the sole opinion of the supervisor, vocational rehabilitation or retraining is both necessary and likely to restore the injured worker to a form of gainful employment, the supervisor may, in his or her sole discretion, continue the temporary total disability compensation under RCW 51.32.090 while the worker is actively and successfully undergoing a formal program of vocational rehabilitation or retraining: *Provided*, That such compensation may not be authorized for a period of more than fifty-two weeks: *Provided further*, That such period may, in the sole discretion of the supervisor after his or her review, be extended for an additional fifty-two weeks or portion thereof by written order of the supervisor.

In cases where the worker is required to reside away from his or her customary residence, the reasonable cost of board and lodging shall also be paid. Said costs shall be chargeable to the employer's cost experience or shall be paid by the self-insurer for workers to whom he or she is liable for compensation and benefits under the provisions of this title. [1977 1st ex.s. c 350 § 48; 1972 ex.s. c 43 § 23; 1971 ex.s. c 289 § 12.]

Reviser's note: RCW 51.32.095 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

51.32.100 When preexisting disease delays or prevents recovery. If it is determined that an injured worker had, at the time of his or her injury, a preexisting disease and that such disease delays or prevents complete recovery from such injury, it shall be ascertained, as nearly as possible, the period over which the injury would have caused disability were it not for the diseased condition and the extent of permanent partial disability which the injury would have caused were it not for the disease, and compensation shall be awarded only therefor. [1977 1st ex.s. c 350 § 49; 1971 ex.s. c 289 § 44; 1961 c 23 § 51.32.100. Prior: 1957 c 70 § 34; prior: 1949 c 219 § 1, part; 1947 c 246 § 1, part; 1929 c 132 § 2, part; 1927 c 310 § 4, part; 1923 c 136 § 2, part; 1919 c 131 § 4, part; 1917 c 28 § 1, part; 1913 c 148 § 1, part; 1911 c 74 § 5, part; Rem. Supp. 1949 § 7679, part.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

Savings—Severability—Repeal and savings—Effective date—1923 c 136: See notes following RCW 51.04.030.

51.32.110 Medical examination—Refusal, obstruction or non-cooperation—Traveling expenses—Pay for time lost (as amended by 1977 1st ex.s. c 323). Any worker entitled to receive any benefits or claiming such under this title shall, if requested by the department or self-insurer, submit himself or herself for medical examination, at a time and from time to time, at a place reasonably convenient for the worker and as may be provided by the rules of the department. If the worker refuses to submit to medical examination, or obstructs the same, or, if any injured worker shall persist in unsanitary or injurious practices which tend to imperil or retard his or her recovery, or shall refuse to submit to such medical or surgical treatment as is reasonably essential to his or her recovery or refuse or obstruct evaluation or examination for the purpose of vocational rehabilitation or does not cooperate in reasonable efforts at such rehabilitation, the department or the self-insurer upon approval by the department, with notice to the worker may suspend any further action on any claim of such worker so long as such refusal, obstruction, noncooperation, or practice continues and reduce, suspend, or deny any compensation for such period: *Provided*, That the department or the self-insurer shall not suspend any further action on any claim of a worker or reduce, suspend, or deny any compensation if a worker has good cause for refusing to submit to or to obstruct any examination, evaluation, treatment or practice requested by the department or required under this section. If the

worker necessarily incurs traveling expenses in attending for examination pursuant to the request of the department, such traveling expenses shall be repaid to him or her out of the accident fund upon proper voucher and audit or shall be repaid by the self-insurer, as the case may be.

If the medical examination required by this section causes the worker to be absent from his or her work without pay he or she shall be paid for such time lost in accordance with the schedule of payments provided in RCW 51.32.090 as amended. [1977 1st ex.s. c 323 § 17; 1971 ex.s. c 289 § 13; 1961 c 23 § 51.32.110. Prior: 1917 c 28 § 18; 1915 c 188 § 5; 1911 c 74 § 13; RRS § 7688.]

Severability—Effective date—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

51.32.110 Medical examination—Refusal to submit—Traveling expenses—Pay for time lost (as amended by 1977 1st ex.s. c 350). Any worker entitled to receive compensation or claiming compensation under this title shall, if requested by the department or self-insurer, submit himself or herself for medical examination, at a time and from time to time, at a place reasonably convenient for the worker and as may be provided by the rules of the department. If the worker refuses to submit to medical examination, or obstructs the same, or, if any injured worker shall persist in unsanitary or injurious practices which tend to imperil or retard his or her recovery, or shall refuse to submit to such medical or surgical treatment as is reasonably essential to his or her recovery, the department or the self-insurer upon approval by the department, with notice to the worker may reduce or suspend the compensation of such worker so long as such refusal or practice continues. If the worker necessarily incurs traveling expenses in attending for examination pursuant to the request of the department, such traveling expenses shall be repaid to him or her out of the accident fund upon proper voucher and audit.

If the medical examination required by this section causes the worker to be absent from his or her work without pay he or she shall be paid for such time lost in accordance with the schedule of payments provided in RCW 51.32.090 as amended. [1977 1st ex.s. c 350 § 50; 1971 ex.s. c 289 § 13; 1961 c 23 § 51.32.110. Prior: 1917 c 28 § 18; 1915 c 188 § 5; 1911 c 74 § 13; RRS § 7688.]

Reviser's note: RCW 51.32.110 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.32.120 Further accident after lump sum payment. Should a further accident occur to a worker who has been previously the recipient of a lump sum payment under this title, his or her future compensation shall be adjusted according to the other provisions of this chapter and with regard to the combined effect of his or her injuries and his or her past receipt of money under this title. [1977 1st ex.s. c 350 § 51; 1961 c 23 § 51.32.120. Prior: 1957 c 70 § 35; prior: 1949 c 219 § 1, part; 1947 c 246 § 1, part; 1929 c 132 § 2, part; 1927 c 310 § 4, part; 1923 c 136 § 2, part; 1919 c 131 § 4, part; 1917 c 28 § 1, part; 1913 c 148 § 1, part; 1911 c 74 § 5, part; Rem. Supp. 1949 § 7679, part.]

51.32.135 Closing of claim conclusive in pension cases—Consent of spouse may be required. In pension cases when a worker or beneficiary closes his or her claim by full conversion to a lump sum or in any other manner as provided in RCW 51.32.130 and 51.32.150, such action shall be conclusive and effective to bar any subsequent application or claim relative thereto by the worker or any beneficiary which would otherwise exist had such person not elected to close the claim: *Provided*, The director may require the spouse of such worker to consent in writing as a prerequisite to conversion and/or

the closing of such claim. [1977 1st ex.s. c 350 § 52; 1973 1st ex.s. c 154 § 98; 1961 c 23 § 51.32.135. Prior: 1953 c 143 § 1.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

51.32.150 Lump sum to beneficiary outside state. If a beneficiary shall reside or move out of the state, the department may, with the written consent of the beneficiary, convert any monthly payments provided for such cases into a lump sum payment (not in any case to exceed the value of the annuity then remaining, to be fixed and certified by the state insurance commissioner, but in no case to exceed the sum provided in RCW 51.32.130 as now or hereafter amended). [1977 1st ex.s. c 323 § 18; 1961 c 23 § 51.32.150. Prior: 1959 c 308 § 5; 1957 c 70 § 37; prior: 1949 c 219 § 1, part; 1947 c 246 § 1, part; 1929 c 132 § 2, part; 1927 c 310 § 4, part; 1923 c 136 § 2, part; 1919 c 131 § 4, part; 1917 c 28 § 1, part; 1913 c 148 § 1, part; 1911 c 74 § 5, part; Rem. Supp. 1949 § 7679, part.]

Severability—**Effective date**—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

51.32.180 Occupational diseases—Limitation. Every worker who suffers disability from an occupational disease in the course of employment under the mandatory or elective adoption provisions of this title, or his or her family and dependents in case of death of the worker from such disease or infection, shall receive the same compensation benefits and medical, surgical and hospital care and treatment as would be paid and provided for a worker injured or killed in employment under this title: *Provided, however,* That this section and RCW 51.16.040 shall not apply where the last exposure to the hazards of the disease or infection occurred prior to January 1, 1937. [1977 1st ex.s. c 350 § 53; 1971 ex.s. c 289 § 49; 1961 c 23 § 51.32.180. Prior: 1959 c 308 § 19; prior: 1941 c 235 § 1, part; 1939 c 135 § 1, part; 1937 c 212 § 1, part; Rem. Supp. 1941 § 7679-1, part.]

Effective dates—**Severability**—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.32.190 Self-insurers—Notice of denial of claim, reasons—Procedure—Director authorized to investigate and settle controversies, enact rules and regulations. (1) If the self-insurer denies a claim for compensation, written notice of such denial, clearly informing the claimant of the reasons therefor and that the director will rule on the matter shall be mailed or given to the claimant and the director within seven days after the self-insurer has notice of the claim.

(2) Until such time as the department has entered an order in a disputed case acceptance of compensation by the claimant shall not be considered a binding determination of his or her rights under this title. Likewise the payment of compensation shall not be considered a binding determination of the obligations of the self-insurer as to future compensation payments.

(3) Upon making the first payment of income benefits, and upon stopping or changing of such benefits

except where a determination of the permanent disability has been made as elsewhere provided in this title, the self-insurer shall immediately notify the director in accordance with a form to be prescribed by the director that the payment of income benefits has begun or has been stopped or changed. Where temporary disability compensation is payable, the first payment thereof shall be made within fourteen days after notice of claim and shall continue at regular semimonthly or biweekly intervals.

(4) If, after the payment of compensation without an award, the self-insurer elects to controvert the right to compensation, the payment of compensation shall not be considered a binding determination of the obligations of the self-insurer as to future compensation payments. The acceptance of compensation by the worker or his or her beneficiaries shall not be considered a binding determination of their rights under this title.

(5) The director (a) may, upon his or her own initiative at any time in a case in which payments are being made without an award, and (b) shall, upon receipt of information from any person claiming to be entitled to compensation, from the self-insurer, or otherwise that the right to compensation is controverted, or that payment of compensation has been opposed, stopped or changed, whether or not claim has been filed, promptly make such inquiry as circumstances require, cause such medical examinations to be made, hold such hearings, require the submission of further information, make such orders, decisions or awards, and take such further action as he or she considers will properly determine the matter and protect the rights of all parties.

(6) The director, upon his or her own initiative, may make such inquiry as circumstances require or is necessary to protect the rights of all the parties and he or she may enact rules and regulations providing for procedures to ensure fair and prompt handling by self-insurers of the claims of workers and beneficiaries. [1977 1st ex.s. c 350 § 54; 1972 ex.s. c 43 § 25; 1971 ex.s. c 289 § 47.]

51.32.210 Claims of injured workmen to be acted upon promptly—Payment—Acceptance—Effect. Claims of injured workers of employers who have secured the payment of compensation by insuring with the department shall be promptly acted upon by the department. Where temporary disability compensation is payable, the first payment thereof shall be mailed within fourteen days after receipt of the claim at the department's offices in Olympia and shall continue at regular semimonthly intervals. The payment of this or any other benefits under this title, prior to the entry of an order by the department in accordance with RCW 51.52.050 as now or hereafter amended, shall be not considered a binding determination of the obligations of the department under this title. The acceptance of compensation by the worker or his or her beneficiaries prior to such order shall likewise not be considered a binding determination of their rights under this title. [1977 1st ex.s. c 350 § 55; 1972 ex.s. c 43 § 26.]

51.32.220 Reduction in compensation for temporary or permanent total disability—Limitation. For persons

under the age of sixty-two receiving compensation for temporary or permanent total disability pursuant to the provisions of chapter 51.32 RCW, such compensation shall be reduced by an amount equal to the benefits payable under the federal old-age, survivors and disability insurance act as now or hereafter amended not to exceed the amount of the reduction established pursuant to 42 USC 424a. However, such reduction shall not apply when the combined compensation provided pursuant to chapter 51.32 RCW and the federal old-age, survivors and disability insurance act is less than the total benefits to which the federal reduction would apply, pursuant to 42 USC 424a. Where any person described in this section refuses to authorize the release of information concerning the amount of benefits payable under said federal act the department's estimate of said amount shall be deemed to be correct unless and until the actual amount is established and no adjustment shall be made for any period of time covered by any such refusal. [1977 1st ex.s. c 323 § 19; 1975 1st ex.s. c 286 § 3.]

Severability—Effective date—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

**Chapter 51.36
MEDICAL AID**

Sections

- 51.36.010 Extent and duration.
- 51.36.020 Transportation to place of treatment—Artificial substitutes and mechanical aids.
- 51.36.030 First aid (as amended by 1977 1st ex.s. c 323).
- 51.36.030 First aid (as amended by 1977 1st ex.s. c 350).
- 51.36.040 Benefits provided for injury during course of employment and during lunch period—"Jobsite" defined—When workman lunch hours not reported.
- 51.36.070 Medical examination—Reports—Costs.

51.36.010 Extent and duration. Upon the occurrence of any injury to a worker entitled to compensation under the provisions of this title, he or she shall receive proper and necessary medical and surgical services at the hands of a physician of his or her own choice, if conveniently located, and proper and necessary hospital care and services during the period of his or her disability from such injury, but the same shall be limited in point of duration as follows:

In the case of permanent partial disability, not to extend beyond the date when compensation shall be awarded him or her, except when the worker returned to work before permanent partial disability award is made, in such case not to extend beyond the time when monthly allowances to him or her shall cease; in case of temporary disability not to extend beyond the time when monthly allowances to him or her shall cease: *Provided*, That after any injured worker has returned to his or her work his or her medical and surgical treatment may be continued if, and so long as, such continuation is deemed necessary by the supervisor of industrial insurance to be necessary to his or her more complete recovery; in case of a permanent total disability not to extend beyond the date on which a lump sum settlement is made with him

or her or he or she is placed upon the permanent pension roll: *Provided, however*, That the supervisor of industrial insurance, solely in his or her discretion, may authorize continued medical and surgical treatment for conditions previously accepted by the department when such medical and surgical treatment is deemed necessary by the supervisor of industrial insurance to protect such worker's life or provide for the administration of medical and therapeutic measures including payment of prescription medications, but not including those controlled substances currently scheduled by the state board of pharmacy as Schedule I, II, III, or IV substances under chapter 69.50 RCW, which are necessary to alleviate continuing pain which results from the industrial injury. In order to authorize such continued treatment the written order of the supervisor of industrial insurance issued in advance of the continuation shall be necessary. [1977 1st ex.s. c 350 § 56; 1975 1st ex.s. c 234 § 1; 1971 ex.s. c 289 § 50; 1965 ex.s. c 166 § 2; 1961 c 23 § 51.36.010. Prior: 1959 c 256 § 2; prior: 1943 c 186 § 2, part; 1923 c 136 § 9, part; 1921 c 182 § 11, part; 1919 c 129 § 2, part; 1917 c 28 § 5, part; Rem. Supp. 1943 § 7714, part.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

Savings—Severability—Repeal and savings—Effective date—1923 c 136: See notes following RCW 51.04.030.

51.36.020 Transportation to place of treatment—Artificial substitutes and mechanical aids. When the injury to any worker is so serious as to require his or her being taken from the place of injury to a place of treatment, his or her employer shall, at the expense of the medical aid fund, or self-insurer, as the case may be, furnish transportation to the nearest place of proper treatment.

Every worker whose injury results in the loss of one or more limbs or eyes shall be provided with proper artificial substitutes and every worker, who suffers an injury to an eye producing an error of refraction, shall be once provided proper and properly equipped lenses to correct such error of refraction and his or her disability rating shall be based upon the loss of sight before correction. Every worker, whose accident results in damage to or destruction of an artificial limb, eye, or tooth, shall have same repaired or replaced. Every worker whose hearing aid or eyeglasses or lenses are damaged, destroyed, or lost as a result of an industrial accident shall have the same restored or replaced. The department or self-insurer shall be liable only for the cost of restoring damaged hearing aids or eyeglasses to their condition at the time of the accident. All mechanical appliances necessary in the treatment of an injured worker, such as braces, belts, casts, and crutches, shall be provided and all mechanical appliances required as permanent equipment after treatment has been completed shall continue to be provided or replaced without regard to the date of injury or date treatment was completed, notwithstanding any other provision of law. A worker, whose injury is of such short duration as to bring him or her within the time limit provisions of RCW 51.32.090, shall nevertheless receive during the omitted period medical, surgical,

and hospital care and service and transportation under the provisions of this chapter. [1977 1st ex.s. c 350 § 57; 1975 1st ex.s. c 224 § 14; 1971 ex.s. c 289 § 51; 1965 ex.s. c 166 § 3; 1961 c 23 § 51.36.020. Prior: 1959 c 256 § 3; prior: 1951 c 236 § 6; 1943 c 186 § 2, part; 1923 c 136 § 9, part; 1921 c 182 § 11, part; 1919 c 129 § 2, part; 1917 c 28 § 5, part; Rem. Supp. 1943 § 7714, part.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

Effective dates—**Severability**—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

Savings—**Severability**—**Repeal and savings**—**Effective date**—1923 c 136: See notes following RCW 51.04.030.

51.36.030 First aid (as amended by 1977 1st ex.s. c 323). Every employer, who employs workers, shall keep as required by the department's rules a first aid kit or kits equipped as required by such rules with materials for first aid to his or her injured workers. Every employer who employs fifty or more workers, shall keep one first aid station equipped as required by the department's rules with materials for first aid to his or her injured workers, and shall cooperate with the department in training one or more employees in first aid to the injured. The maintenance of such first aid kits and stations shall be deemed to be a part of any safety and health standards established under Title 49 RCW. [1977 1st ex.s. c 323 § 20; 1961 c 23 § 51.36.030. Prior: 1959 c 256 § 4; prior: 1943 c 186 § 2, part; 1923 c 136 § 9, part; 1921 c 182 § 11, part; 1919 c 129 § 2, part; 1917 c 28 § 5, part; Rem. Supp. 1943 § 7714, part.]

Severability—**Effective date**—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

51.36.030 First aid (as amended by 1977 1st ex.s. c 350). Every employer, who employs less than fifty workers, shall keep at his or her plant a first aid kit equipped as required by the department with materials for first aid to his or her injured workers. Every employer who employs within a radius of one-half mile of any plant or establishment fifty or more workers, shall keep one first aid station equipped as required by the department with materials for first aid to his or her injured workers, and shall cooperate with the department in training one or more employees in first aid to the injured. The maintenance of such first aid kits and stations shall be deemed to be a part of any educational standards established under Title 49 RCW. [1977 1st ex.s. c 350 § 58; 1961 c 23 § 51.36.030. Prior: 1959 c 256 § 4; prior: 1943 c 186 § 2, part; 1923 c 136 § 9, part; 1921 c 182 § 11, part; 1919 c 129 § 2, part; 1917 c 28 § 5, part; Rem. Supp. 1943 § 7714, part.]

Reviser's note: RCW 51.36.030 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Savings—**Severability**—**Repeal and savings**—**Effective date**—1923 c 136: See notes following RCW 51.04.030.

51.36.040 Benefits provided for injury during course of employment and during lunch period—"Jobsite" defined—When workman lunch hours not reported. The benefits of Title 51 RCW shall be provided to each worker receiving an injury, as defined therein, during the course of his or her employment and also during his or her lunch period as established by the employer while on the jobsite. The jobsite shall consist of the premises as are occupied, used or contracted for by the employer for the business of work process in which the employer is then engaged: *Provided*, That if a worker by reason of his or her employment leaves such jobsite under the direction, control or request of the employer and if such worker is injured during his or her lunch period while so away from the jobsite, the worker shall receive the benefits as provided herein: *And provided further*, That the

employer need not consider the lunch period in worker hours for the purpose of reporting to the department unless the worker is actually paid for such period of time. [1977 1st ex.s. c 350 § 59; 1961 c 107 § 2.]

51.36.070 Medical examination—Reports—Costs. Whenever the director or the self-insurer deems it necessary in order to resolve any medical issue, a worker shall submit to examination by a physician or physicians selected by the director, with the rendition of a report to the person ordering the examination. The director, in his or her discretion, may charge the cost of such examination or examinations to the self-insurer or to the medical aid fund as the case may be. The cost of said examination shall include payment to the worker of reasonable expenses connected therewith. [1977 1st ex.s. c 350 § 60; 1971 ex.s. c 289 § 54.]

Effective dates—**Severability**—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

Chapter 51.40

MEDICAL AID CONTRACTS

Sections

51.40.010	Medical aid contracts authorized. (Amended).
51.40.010	Medical aid contracts authorized. (Repealed).
51.40.020	Contract approval. (Amended).
51.40.020	Contract approval. (Repealed).
51.40.030	Provisions made inapplicable where contract exists. (Amended).
51.40.030	Provisions made inapplicable where contract exists. (Repealed).
51.40.040	Provision for medical aid when contract service ended. (Amended).
51.40.040	Provision for medical aid when contract service ended. (Repealed).
51.40.050	Complaint of the contract service. (Amended).
51.40.050	Complaint of the contract service. (Repealed).
51.40.060	Adequate treatment when contract treatment deficient. (Amended).
51.40.060	Adequate treatment when contract treatment deficient. (Repealed).
51.40.070	Transfer from contract doctor. (Amended).
51.40.070	Transfer from contract doctor. (Repealed).

51.40.010 Medical aid contracts authorized. Any contract made in violation of this title shall be invalid, except that any employer engaged in extrahazardous work may, with the consent of a majority of his or her workers, enter into written contracts with physicians, surgeons and owners of hospitals operating the same, or with hospital associations, for medical, surgical and hospital care to workers injured in such employment, by, and under the control and administration of, and at the direct expense of the employer and his or her workers. Such a contract shall be known as a "medical aid contract" and shall not be assignable or transferable by operation of law or otherwise except with the consent of the supervisor of industrial insurance endorsed thereon. [1977 1st ex.s. c 350 § 61; 1961 c 23 § 51.40.010. Prior: 1939 c 50 § 1, part; 1927 c 310 § 9, part; 1921 c 182 § 12, part; 1919 c 129 § 5, part; 1917 c 28 § 15, part; RRS § 7724, part.]

51.40.010 Medical aid contracts authorized. [1961 c 23 § 51.40.010. Prior: 1939 c 50 § 1, part; 1927 c 310 § 9, part; 1921 c 182 § 12, part; 1919 c 129 § 5, part; 1917 c 28 § 15, part; RRS § 7724, part.] Repealed by 1977 1st ex.s. c 323 § 28.

Reviser's note: (1) RCW 51.40.010 was amended by 1977 1st ex.s. c 350 and was repealed by 1977 1st ex.s. c 323, each without reference to the other. For rule of construction, see RCW 1.12.025.

(2) For severability and effective date of 1977 1st ex.s. c 323, see notes following RCW 51.04.040.

(3) For section which provides for the continuation of the obligations of medical aid contracts approved prior to repeal, see RCW 51.04.105.

51.40.020 Contract approval. Before any medical aid contract shall go into effect it shall be submitted to the supervisor of industrial insurance and may be disapproved by him or her when found not to provide for such care of injured workers as is contemplated by the provisions of RCW 51.04.030 and, if a contract so submitted is with the owners of a hospital operating the same, or with a hospital association, the supervisor of industrial insurance shall have power to disapprove the same if in his or her judgment the ownership or management of such hospital or hospital association is not such as to produce satisfactory service. Any such contract with physician, surgeon, or owner and operator of a hospital, or with a hospital association, so disapproved shall not be valid. If approved the contract shall be in effect for any period of time specified therein, not exceeding three years from the date of approval: *Provided*, That the director, through the division of industrial insurance, may, before approving any such contract, require the giving by any physician, surgeon, hospital or hospital association, of a bond in such sum and in such form, as the director may determine, conditioned that the obligor will faithfully perform such contract. Every such contract to be valid must provide the injured worker the same services and a standard of service equal to that provided by the department for noncontract cases: *Provided*, That the contract shall provide for the payment of fees to licensed practitioners of the healing arts who are not members of the medical contracting group but who render services to a contract-covered employee. Such fees shall not exceed the agreed fee schedule of the medical contracting group and said fees shall be subject to the proration of payments on the same basis as the medical aid contracting group and any such practitioner participating in the agreement of any contract-covered employee shall agree to render similar services in the event of a catastrophe and to accept a proration of payments on the same basis as the medical contracting group. Every such contract to be valid must provide that the expenses incident to it shall be borne one-half by the employer and one-half by the employees, and that it shall be administered by the two interests jointly and equally.

No contract entered into prior to the time chapter 36, Laws of 1965 goes into effect shall be invalidated during its term by anything contained in the amendatory provisions of said chapter 36, Laws of 1965. [1977 1st ex.s. c 350 § 62; 1965 ex.s. c 80 § 2; 1965 c 36 § 1; 1961 c 23 § 51.40.020. Prior: 1939 c 50 § 1, part; 1927 c 310 § 9, part; 1921 c 182 § 12, part; 1919 c 129 § 5, part; 1917 c 28 § 15, part; RRS § 7724, part.]

51.40.020 Contract approval. [1965 ex.s. c 80 § 2; 1965 c 36 § 1; 1961 c 23 § 51.40.020. Prior: 1939 c 50 § 1, part; 1927 c 310 § 9, part; 1921 c 182 § 12, part; 1919 c 129 § 5, part; 1917 c 28 § 15, part; RRS § 7724, part.] Repealed by 1977 1st ex.s. c 323 § 28.

Reviser's note: (1) RCW 51.40.020 was amended by 1977 1st ex.s. c 350 and was repealed by 1977 1st ex.s. c 323, each without reference to the other. For rule of construction, see RCW 1.12.025.

(2) For severability and effective date of 1977 1st ex.s. c 323, see notes following RCW 51.04.040.

(3) For section which provides for the continuation of the obligations of medical aid contracts approved prior to repeal, see RCW 51.04.105.

Reviser's note: 1965 c 36 § 1 (subsequently amended by 1965 ex.s. c 80 § 2) added to the first paragraph of the above section the 4th and 5th sentences thereof.

51.40.030 Provisions made inapplicable where contract exists. So long as a medical aid contract is in effect the subject matter of the contract shall, except as in this chapter otherwise specified, be outside of, and not affected by the provisions relating to the assessment and payment of medical aid premiums, but the provisions relating to artificial substitutes and lenses and the basis of compensation when lenses are supplied, and to transportation of injured workers and to educational standards of safety shall apply. [1977 1st ex.s. c 350 § 63; 1961 c 23 § 51.40.030. Prior: 1939 c 50 § 1, part; 1927 c 310 § 9, part; 1921 c 182 § 12, part; 1919 c 129 § 5, part; 1917 c 28 § 15, part; RRS § 7724, part.]

51.40.030 Provisions made inapplicable where contract exists. [1961 c 23 § 51.40.030. Prior: 1939 c 50 § 1, part; 1927 c 310 § 9,

part; 1921 c 182 § 12, part; 1919 c 129 § 5, part; 1917 c 28 § 15, part; RRS § 7724, part.] Repealed by 1977 1st ex.s. c 323 § 28.

Reviser's note: (1) RCW 51.40.030 was amended by 1977 1st ex.s. c 350 and was repealed by 1977 1st ex.s. c 323, each without reference to the other. For rule of construction, see RCW 1.12.025.

(2) For severability and effective date of 1977 1st ex.s. c 323, see notes following RCW 51.04.040.

(3) For section which provides for the continuation of the obligations of medical aid contracts approved prior to repeal, see RCW 51.04.105.

51.40.040 Provision for medical aid when contract service ended. The employer shall pay monthly into the medical aid fund ten percent of the amount he or she would have been required to pay in that month if such contract had not been made, and of that ten percent he or she shall collect one-half from his or her said workers by proper deduction from the daily wage of each and, in addition thereto, every classification and subclassification of industries whose employer and employees are under medical aid contract, shall pay into the surplus fund hereby created a further sum to be determined by the director, through the division of industrial insurance, not exceeding ten percent of the amount that would have been required to be paid into the medical aid fund if such contract had not been made and the employer shall collect such sum from the party agreeing to furnish such medical aid and hospital service. The surplus fund shall be used by the director only for the purpose of furnishing medical aid to workers included in the contract provided for in this section, where the necessity therefor arises after the expiration or cancellation of such medical aid contract, in those instances where the medical aid contractor has become deceased, insolvent, dissolved or, in the opinion of the director, otherwise incapable of rendering the required medical aid to the injured workers. The amount at which such surplus fund shall be maintained in each classification and subclassification shall be determined by the director, through the division of industrial insurance, based upon the estimated costs of such future medical treatment required to be furnished after the expiration or cancellation of the medical aid contract, except as in this chapter provided. When adequate reserves for such purpose have been accumulated to the credit of any classification and subclassification the levy therefor may be suspended in the discretion of the director. Disbursements from said surplus fund shall be made by warrants drawn against the same by the department upon certificate thereof, or requisition therefor through the division of industrial insurance. Payment into the surplus fund shall not relieve the party agreeing to furnish such medical aid and hospital service from his or her obligation so to do at any time during or after the expiration of his or her medical aid contract except as in this section provided: *Provided*, That if, upon the expiration of any medical aid contract, the medical aid contractor does not renew it and forthwith and thereafter ceases the performance of all medical aid contracts as in this chapter provided, he or she shall be relieved from all liability to furnish future medical aid to the injured worker arising after the expiration of such contract or contracts, if he or she has paid all levies theretofore made during the existence of such contract or contracts into the surplus fund. [1977 1st ex.s. c 350 § 64; 1973 c 106 § 29; 1961 c 23 § 51.40.040. Prior: 1939 c 50 § 1, part; 1927 c 310 § 9, part; 1921 c 182 § 12, part; 1919 c 129 § 5, part; 1917 c 28 § 15, part; RRS § 7724, part.]

51.40.040 Provision for medical aid when contract service ended. [1973 c 106 § 29; 1961 c 23 § 51.40.040. Prior: 1939 c 50 § 1, part; 1927 c 310 § 9, part; 1921 c 182 § 12, part; 1919 c 129 § 5, part; 1917 c 28 § 15, part; RRS § 7724, part.] Repealed by 1977 1st ex.s. c 323 § 28.

Reviser's note: (1) RCW 51.40.040 was amended by 1977 1st ex.s. c 350 and was repealed by 1977 1st ex.s. c 323, each without reference to the other. For rule of construction, see RCW 1.12.025.

(2) For severability and effective date of 1977 1st ex.s. c 323, see notes following RCW 51.04.040.

(3) For section which provides for the continuation of the obligations of medical aid contracts approved prior to repeal, see RCW 51.04.105.

51.40.050 Complaint of the contract service. During the operation of any contract the supervisor of industrial insurance, on his or her own motion, or any interested person, may file a complaint alleging that the service and care actually rendered thereunder are not up to the standard provided in RCW 51.04.030 and, upon a hearing had

upon notice to the employer and workers interested thereunder, the supervisor of industrial insurance may make an order that the contract shall terminate unless the defect or deficiency complained of is remedied to his or her satisfaction within a period to be fixed in such order, or he or she may at such hearing sustain the complaint and make an order that the contract shall terminate forthwith.

Notice to the workers may be effected by service upon one of them designated by a majority of the workers, in writing in duplicate, one copy to be posted for local convenience and the other filed with the supervisor of industrial insurance. In default of any such designation, service upon any one worker other than the one instituting a complaint shall be service upon all. During an appeal the contract shall remain in force and operation, but the costs of the appeal shall be paid out of the medical aid fund only in case the decision of the supervisor of industrial insurance is reversed. [1977 1st ex.s. c 350 § 65; 1961 c 23 § 51.40.050. Prior: 1939 c 50 § 1, part; 1927 c 310 § 9, part; 1921 c 182 § 12, part; 1919 c 129 § 5, part; 1917 c 28 § 15, part; RRS § 7724, part.]

51.40.050 Complaint of the contract service. [1961 c 23 § 51.40.050. Prior: 1939 c 50 § 1, part; 1927 c 310 § 9, part; 1921 c 182 § 12, part; 1919 c 129 § 5, part; 1917 c 28 § 15, part; RRS § 7724, part.] Repealed by 1977 1st ex.s. c 323 § 28.

Reviser's note: (1) RCW 51.40.050 was amended by 1977 1st ex.s. c 350 and was repealed by 1977 1st ex.s. c 323, each without reference to the other. For rule of construction, see RCW 1.12.025.

(2) For severability and effective date of 1977 1st ex.s. c 323, see notes following RCW 51.04.040.

(3) For section which provides for the continuation of the obligations of medical aid contracts approved prior to repeal, see RCW 51.04.105.

51.40.060 Adequate treatment when contract treatment deficient. If, during the operation of any medical aid contract, any injured worker shall not receive medical or surgical treatment with reasonable promptness upon the occurrence of his or her injury, or at any time during his or her treatment, the supervisor of industrial insurance may provide such treatment during the emergency at the expense of his or her employer, who may charge such expense against such contract, and such emergency treatment shall continue until supplanted by like treatment under such contract, notwithstanding the pendency of an appeal from such action. The cost of such emergency treatment shall not exceed the rate specified in the department's fee bill. The acceptance of employment by any worker shall be and be held to be an acceptance of any existing contract made under this chapter to which his or her employer is a party. [1977 1st ex.s. c 350 § 66; 1961 c 23 § 51.40.060. Prior: 1939 c 50 § 1, part; 1927 c 310 § 9, part; 1921 c 182 § 12, part; 1919 c 129 § 5, part; 1917 c 28 § 15, part; RRS § 7724, part.]

51.40.060 Adequate treatment when contract treatment deficient. [1961 c 23 § 51.40.060. Prior: 1939 c 50 § 1, part; 1927 c 310 § 9, part; 1921 c 182 § 12, part; 1919 c 129 § 5, part; 1917 c 28 § 15, part; RRS § 7724, part.] Repealed by 1977 1st ex.s. c 323 § 28.

Reviser's note: (1) RCW 51.40.060 was amended by 1977 1st ex.s. c 350 and was repealed by 1977 1st ex.s. c 323, each without reference to the other. For rule of construction, see RCW 1.12.025.

(2) For severability and effective date of 1977 1st ex.s. c 323, see notes following RCW 51.04.040.

(3) For section which provides for the continuation of the obligations of medical aid contracts approved prior to repeal, see RCW 51.04.105.

51.40.070 Transfer from contract doctor. The director shall have power to enact rules prescribing whether and under what conditions an injured worker, who has been receiving treatment under medical aid contract at a place other than his or her place of permanent abode and who shall be or have become ambulatory or who, being discharged, shall require further treatment, may be transferred to the care of a surgeon at his or her place of residence, and providing for the compensation of such surgeon at the expense of the doctor, hospital or hospital association holding such contract. [1977 1st ex.s. c 350 § 67; 1961 c 23 § 51.40.070. Prior: 1959 c 256 § 5; prior: 1943 c 186 § 2, part; 1923 c 136 § 9, part; 1921 c 182 § 11, part; 1919 c 129 § 2, part; 1917 c 28 § 5, part; Rem. Supp. 1943 § 7714, part.]

51.40.070 Transfer from contract doctor. [1961 c 23 § 51.40.070. Prior: 1959 c 256 § 5; prior: 1943 c 186 § 2, part; 1923 c 136 § 9, part; 1921 c 182 § 11, part; 1919 c 129 § 2, part; 1917 c 28 § 5, part; Rem. Supp. 1943 § 7714, part.] Repealed by 1977 1st ex.s. c 323 § 28.

Reviser's note: (1) RCW 51.40.070 was amended by 1977 1st ex.s. c 350 and was repealed by 1977 1st ex.s. c 323, each without reference to the other. For rule of construction, see RCW 1.12.025.

(2) For severability and effective date of 1977 1st ex.s. c 323, see notes following RCW 51.04.040.

(3) For section which provides for the continuation of the obligations of medical aid contracts approved prior to repeal, see RCW 51.04.105.

Savings—Severability—Repeal and savings—Effective date—1923 c 136: See notes following RCW 51.04.030.

Chapter 51.44

FUNDS

Sections

51.44.040	Second injury fund.
51.44.110	Disbursements of funds.

51.44.040 Second injury fund. (1) There shall be in the office of the state treasurer, a fund to be known and designated as the "second injury fund", which shall be used only for the purpose of defraying charges against it as provided in RCW 51.16.120 as now or hereafter amended. Said fund shall be administered by the director. The state treasurer shall be the custodian of the second injury fund and shall be authorized to disburse moneys from it only upon written order of the director.

(2) Payments to the second injury fund from the accident fund shall be made pursuant to rules and regulations promulgated by the director.

(3) Assessments for the second injury fund shall be imposed on self-insurers pursuant to rules and regulations promulgated by the director to ensure that self-insurers shall pay to such fund in the proportion that the payments made from such fund on account of claims made against self-insurers bears to the total sum of payments from such fund. [1977 1st ex.s. c 323 § 21; 1972 ex.s. c 43 § 27; 1961 c 23 § 51.44.040. Prior: 1959 c 308 § 17; 1947 c 183 § 1; 1945 c 219 § 2; Rem. Supp. 1947 § 7676-1b.]

Severability—Effective date—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

51.44.110 Disbursements of funds. Disbursement out of the several funds shall be made only upon warrants drawn by the department. The state treasurer shall pay every warrant out of the fund upon which it is drawn. If, at any time, there shall not be sufficient money in the fund on which any such warrant is drawn wherewith to pay the same, the employer on account of whose worker it was that the warrant was drawn shall pay the same, and he or she shall be credited upon his or her next following contribution to such fund the amount so paid with interest thereon at the legal rate from the date of such payment to the date such next following contribution became payable and, if the amount of the credit shall exceed the amount of the contribution, he or she shall have a warrant upon the same fund for the excess and, if any such warrant shall not be so paid, it

shall remain, nevertheless, payable out of the fund. [1977 1st ex.s. c 350 § 68; 1973 c 106 § 30; 1961 c 23 § 51.44.110. Prior: 1911 c 74 § 26, part; RRS § 7705, part.]

Chapter 51.48 PENALTIES

Sections

- 51.48.010 Employer's liability for penalties, injury or disease occurring prior to time payment of compensation secured.
- 51.48.020 Employer's misrepresentation—False information by person claiming benefits.
- 51.48.050 Liability for illegal collections for medical aid (as amended by 1977 1st ex.s. c 323).
- 51.48.050 Liability for illegal collections for medical aid (as amended by 1977 1st ex.s. c 350).
- 51.48.060 Physician, failure to report or comply with title—Penalty.
- 51.48.070 Employer's responsibility for safeguard, protection or minor doing unauthorized work (as amended by 1977 1st ex.s. c 323).
- 51.48.070 Employer's responsibility for safeguard (as amended by 1977 1st ex.s. c 350).
- 51.48.105 Penalties for failure to apply for coverage of employees—Not applicable, when.

51.48.010 Employer's liability for penalties, injury or disease occurring prior to time payment of compensation secured. Every employer shall be liable for the penalties described in this title and shall also be liable if an injury or occupational disease has been sustained by a worker prior to the time he or she has secured the payment of such compensation to a penalty in a sum equal to fifty percent of the cost for such injury or occupational disease, for the benefit of the medical aid fund. [1977 1st ex.s. c 350 § 69; 1971 ex.s. c 289 § 61; 1961 c 23 § 51.48.010. Prior: 1947 c 247 § 1(4d), part; Rem. Supp. 1947 § 7676d, part.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.48.020 Employer's misrepresentation—False information by person claiming benefits. (1) Any employer, who misrepresents to the department the amount of his or her payroll upon which the premium under this title is based, shall be liable to the state in ten times the amount of the difference in premiums paid and the amount the employer should have paid and for the reasonable expenses of auditing his or her books and collecting such sums. Such liability may be enforced in the name of the department. Such an employer shall also be guilty of a class C felony if such misrepresentations are made knowingly, if the amount of the difference in premiums is five hundred dollars or more and shall be guilty of a gross misdemeanor if such amount is less than five hundred dollars.

(2) Any person claiming benefits under this title, who knowingly gives false information required in any claim or application under this title shall be guilty of a class C felony when such claim or application involves an amount of five hundred dollars or more. When such claim or application involves an amount less than five hundred dollars, the person giving such information shall

be guilty of a gross misdemeanor. [1977 1st ex.s. c 323 § 22; 1971 ex.s. c 289 § 63; 1961 c 23 § 51.48.020. Prior: 1947 c 247 § 1(4d), part; Rem. Supp. 1947 § 7676d, part.]

Severability—Effective date—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.48.050 Liability for illegal collections for medical aid (as amended by 1977 1st ex.s. c 323). It shall be unlawful for any employer to directly or indirectly demand or collect from any of his or her workers any sum of money whatsoever for or on account of medical, surgical, hospital, or other treatment or transportation of injured workers, other than as specified in RCW 51.16.140, and any employer who directly or indirectly violates the foregoing provisions of this section shall be liable to the state for the benefit of the medical aid fund in ten times the amount so demanded or collected, and such employer and every officer, agent, or servant of such employer knowingly participating therein shall also be guilty of a misdemeanor. [1977 1st ex.s. c 323 § 23; 1961 c 23 § 51.48.050. Prior: 1917 c 28 § 17; RRS § 7726.]

Severability—Effective date—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

51.48.050 Liability for illegal collections for medical aid (as amended by 1977 1st ex.s. c 350). It shall be unlawful for any employer to directly or indirectly demand or collect from any of his or her workers any sum of money whatsoever for or on account of medical, surgical, hospital, or other treatment or transportation of injured workers, other than as specified in RCW 51.16.140 and 51.40.040, and any employer who directly or indirectly violates the foregoing provisions of this section shall be liable to the state for the benefit of the medical aid fund in ten times the amount so demanded or collected, and such employer and every officer, agent, or servant of such employer knowingly participating therein shall also be guilty of a misdemeanor. [1977 1st ex.s. c 350 § 70; 1961 c 23 § 51.48.050. Prior: 1917 c 28 § 17; RRS § 7726.]

Reviser's note: RCW 51.48.050 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

51.48.060 Physician, failure to report or comply with title—Penalty. Any physician who fails, neglects or refuses to file a report with the director, as required by this title, within five days of the date of treatment, showing the condition of the injured worker at the time of treatment, a description of the treatment given, and an estimate of the probable duration of the injury, or who fails or refuses to render all necessary assistance to the injured worker, as required by this title, shall be subject to a civil penalty of one hundred dollars. [1977 1st ex.s. c 350 § 71; 1971 ex.s. c 289 § 20; 1961 c 23 § 51.48.060. Prior: 1927 c 310 § 6(e), part; 1921 c 182 § 7, part; 1911 c 74 § 12, part; RRS § 7686(e), part.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.48.070 Employer's responsibility for safeguard, protection or minor doing unauthorized work (as amended by 1977 1st ex.s. c 323). If any worker is injured because of the absence of any safeguard or protection required to be provided or maintained by, or pursuant to, any statute or ordinance, or any departmental regulation under any statute, or is, at the time of the injury, of less than the maximum age prescribed by law for the employment of a minor in the occupation in which he or she is engaged when injured, or when a minor is injured when engaged in work not authorized by any required work permit issued for his or her employment or where no such permit has been issued, the employer shall, within ten days after the demand therefor

by the department, pay into the supplemental pension fund in addition to all other payments required by law:

(1) In case any consequent payment is for any permanent partial disability or temporary disability, a sum equal to fifty percent of the amount so paid.

(2) In case any consequent payment is payable in monthly payments or otherwise for permanent total disability or death, a sum equal to fifty percent of the lump value of such monthly payment, estimated in accordance with the rule stated in RCW 51.32.130.

The foregoing provisions shall not apply to the employer if the absence of such guard or protection is due to the removal thereof by the injured worker himself or herself or with his or her knowledge by any of his or her fellow workers, unless such removal is by order or direction of the employer or superintendent or foreman of the employer, or anyone placed by the employer in control or direction of such worker. If the removal of such guard or protection is by the worker himself or herself or with his or her consent by any of his or her fellow workers, unless by order or direction of the employer or the superintendent or foreman of the employer, or anyone placed by the employer in control or direction of such worker, the schedule of compensation provided in chapter 51.32 RCW shall be reduced ten percent for the individual case of such worker. [1977 1st ex.s. c 323 § 24; 1961 c 23 § 51.48.070. Prior: 1911 c 74 § 9; RRS § 7683.]

Severability—Effective date—1977 1st ex.s. c 323: See notes following RCW 51.04.040.

51.48.070 Employer's responsibility for safeguard (as amended by 1977 1st ex.s. c 350). If any worker is injured because of the absence of any safeguard or protection required to be provided or maintained by, or pursuant to, any statute or ordinance, or any departmental regulation under any statute, or is, at the time of the injury, of less than the maximum age prescribed by law for the employment of a minor in the occupation in which he or she is engaged when injured the employer shall, within ten days after the demand therefor by the department, pay into the accident fund in addition to all other payments required by law:

(1) In case the consequent payment to the worker out of the accident fund is a lump sum, a sum equal to fifty percent of that amount.

(2) In case the consequent payment to the worker is payable in monthly payments, a sum equal to fifty percent of the lump value of such monthly payment, estimated in accordance with the rule stated in RCW 51.32.130.

The foregoing provisions shall not apply to the employer if the absence of such guard or protection is due to the removal thereof by the injured worker himself or herself or with his or her knowledge by any of his or her fellow workers, unless such removal is by order or direction of the employer or superintendent or foreman of the employer, or anyone placed by the employer in control or direction of such worker. If the removal of such guard or protection is by the worker himself or herself or with his or her consent by any of his or her fellow workers, unless by order or direction of the employer or the superintendent or foreman of the employer, or anyone placed by the employer in control or direction of such worker, the schedule of compensation provided in chapter 51.32 RCW shall be reduced ten percent for the individual case of such worker. [1977 1st ex.s. c 350 § 72; 1961 c 23 § 51.48.070. Prior: 1911 c 74 § 9; RRS § 7683.]

Reviser's note: RCW 51.48.070 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

51.48.105 Penalties for failure to apply for coverage of employees—Not applicable, when. The penalties provided under this title for failure to apply for coverage for employees as required by the provisions of Title 51 RCW, the worker's compensation law, shall not be applicable prior to March 1, 1972, as to any employer whose work first became subject to this title on or after January 1, 1972. [1977 1st ex.s. c 350 § 73; 1972 ex.s. c 78 § 1.]

Chapter 51.52

APPEALS

Sections

51.52.010	Board of industrial insurance appeals.
51.52.050	Copy of department action to be served—Appeal.
51.52.060	Notice of appeal—Time—Cross-appeal— Department may modify, reverse, etc.—Denial of appeal without prejudice.
51.52.070	Contents of notice—Transmittal of record.
51.52.095	Conference for disposal of matters involved in appeal.
51.52.100	Proceedings before board—Contempt.
51.52.110	Court appeal—Taking the appeal.
51.52.120	Attorney's fee before department or board— Unlawful attorney's fees.
51.52.130	Attorney and witness fees in court appeal.

51.52.010 Board of industrial insurance appeals.

There shall be a "board of industrial insurance appeals," hereinafter called the "board," consisting of three members appointed by the governor as hereinafter provided. One shall be a representative of the public and a lawyer, appointed from a mutually agreed to list of not less than three active members of the Washington state bar association, submitted to the governor by the two organizations defined below, and such member shall be the chairperson of said board. The second member shall be a representative of the majority of workers engaged in employment under this title and selected from a list of not less than three names submitted to the governor by an organization, state-wide in scope, which through its affiliates embraces a cross section and a majority of the organized labor of the state. The third member shall be a representative of employers under this title, and appointed from a list of at least three names submitted to the governor by a recognized state-wide organization of employers, representing a majority of employers. The initial terms of office of the members of the board shall be for six, four, and two years respectively. Thereafter all terms shall be for a period of six years. Each member of the board shall be eligible for reappointment and shall hold office until his or her successor is appointed and qualified. In the event of a vacancy the governor is authorized to appoint a successor to fill the unexpired term of his or her predecessor. All appointments to the board shall be made in conformity with the foregoing plan. Whenever the workload of the board and its orderly and expeditious disposition shall necessitate, the governor may appoint two additional pro-tem members in addition to the regular members. Such appointments shall be for a definite period of time, and shall be made from lists submitted respectively by labor and industry as in the case of regular members. One pro-tem member shall be a representative of labor and one shall be a representative of industry. Members shall devote their entire time to the duties of the board and shall receive for their services a salary as fixed by the governor in accordance with the provisions of RCW 43.03.040 which shall be in addition to travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. Headquarters for the board shall be located in Olympia. The board shall adopt a seal which shall be judicially recognized. [1977 1st ex.s. c 350 § 74; 1975-'76 2nd ex.s. c 34 § 151; 1971 ex.s. c 289 § 68;

1965 ex.s. c 165 § 3; 1961 c 307 § 8; 1961 c 23 § 51.52.010. Prior: 1951 c 225 § 1; prior: 1949 c 219 § 2; Rem. Supp. 1949 § 10837-1.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.52.050 Copy of department action to be served—Appeal. Whenever the department has made any order, decision, or award, it shall promptly serve the worker, beneficiary, employer, or other person affected thereby, with a copy thereof by mail, which shall be addressed to such person at his or her last known address as shown by the records of the department. The copy, in case the same is a final order, decision, or award, shall bear on the same side of the same page on which is found the amount of the award, a statement, set in black faced type of at least ten point body or size, that such final order, decision, or award must be appealed to the board, Olympia, within sixty days, or the same shall become final.

Whenever the department has taken any action or made any decision relating to any phase of the administration of this title the worker, beneficiary, employer, or other person aggrieved thereby may appeal to the board and said appellant shall have the burden of proceeding with the evidence to establish a prima facie case for the relief sought in such appeal. Any such person aggrieved by the decision and order of the board may thereafter appeal to the superior court, as prescribed in this chapter. [1977 1st ex.s. c 350 § 75; 1975 1st ex.s. c 58 § 1; 1961 c 23 § 51.52.050. Prior: 1957 c 70 § 55; 1951 c 225 § 5; prior: (i) 1947 c 281 § 1, part; 1943 c 210 § 1, part; 1939 c 41 § 1, part; 1937 c 211 § 1, part; 1927 c 310 § 1, part; 1921 c 182 § 1, part; 1919 c 131 § 1, part; 1911 c 74 § 2, part; Rem. Supp. 1947 § 7674, part. (ii) 1947 c 247 § 1, part; 1911 c 74 § 20, part; Rem. Supp. 1947 § 7676e, part. (iii) 1949 c 219 § 6, part; 1943 c 280 § 1, part; 1931 c 90 § 1, part; 1929 c 132 § 6, part; 1927 c 310 § 8, part; 1911 c 74 § 20, part; Rem. Supp. 1949 § 7697, part. (iv) 1923 c 136 § 7, part; 1921 c 182 § 10, part; 1917 c 29 § 3, part; RRS § 7712, part. (v) 1917 c 29 § 11; RRS § 7720. (vi) 1939 c 50 § 1, part; 1927 c 310 § 9, part; 1921 c 182 § 12, part; 1919 c 129 § 5, part; 1917 c 28 § 15, part; RRS § 7724, part.]

Savings—Severability—Repeal and savings—Effective date—1923 c 136: See notes following RCW 51.04.030.

51.52.060 Notice of appeal—Time—Cross-appeal—Department may modify, reverse, etc.—Denial of appeal without prejudice. Any worker, beneficiary, employer, or other person aggrieved by an order, decision, or award of the department must, before he or she appeals to the courts, file with the board and the director, by mail or personally, within sixty days from the day on which such copy of such order, decision, or award was communicated to such person, a notice of appeal to the board. Within ten days of the date on which an appeal has been granted by the board, the board shall notify the other interested parties thereto of the receipt thereof and shall forward a copy of said

notice of appeal to such other interested parties. Within twenty days of the receipt of such notice of the board, the worker or the employer may file with the board a cross-appeal from the order of the department from which the original appeal was taken: *Provided*, That nothing contained in this section shall be deemed to change, alter or modify the practice or procedure of the department for the payment of awards pending appeal: *And provided*, That failure to file notice of appeal with both the board and the department shall not be ground for denying the appeal if the notice of appeal is filed with either the board or the department: *And provided*, That, if within the time limited for filing a notice of appeal to the board from an order, decision, or award of the department, the department shall direct the submission of further evidence or the investigation of any further fact, the time for filing such notice of appeal shall not commence to run until such person shall have been advised in writing of the final decision of the department in the matter: *Provided, further*, That in the event the department shall direct the submission of further evidence or the investigation of any further fact, as above provided, the department shall render a final order, decision, or award within ninety days from the date such further submission of evidence or investigation of further fact is ordered which time period may be extended by the department for good cause stated in writing to all interested parties for an additional ninety days: *Provided, further*, That the department, either within the time limited for appeal, or within thirty days after receiving a notice of appeal, may modify, reverse or change any order, decision, or award, or may hold any such order, decision, or award in abeyance for a period of ninety days which time period may be extended by the department for good cause stated in writing to all interested parties for an additional ninety days pending further investigation in light of the allegations of the notice of appeal, and the board shall thereupon deny the appeal, without prejudice to the appellant's right to appeal from any subsequent determinative order issued by the department. [1977 1st ex.s. c 350 § 76; 1975 1st ex.s. c 58 § 2; 1963 c 148 § 1; 1961 c 274 § 8; 1961 c 23 § 51.52.060. Prior: 1957 c 70 § 56; 1951 c 225 § 6; prior: 1949 c 219 §§ 1, part, 6, part; 1947 c 246 § 1, part; 1943 c 280 § 1, part; 1931 c 90 § 1, part; 1929 c 132 §§ 2, part, 6, part; 1927 c 310 §§ 4, part, 8, part; 1923 c 136 § 2, part; 1919 c 134 § 4, part; 1917 c 28 § 1, part; 1913 c 148 § 1, part; 1911 c 74 §§ 5, part, 20, part; Rem Supp. 1949 §§ 7679, part, 7697, part.]

51.52.070 Contents of notice—Transmittal of record. The notice of appeal to the board shall set forth in full detail the grounds upon which the person appealing considers such order, decision, or award is unjust or unlawful, and shall include every issue to be considered by the board, and it must contain a detailed statement of facts upon which such worker, beneficiary, employer, or other person relies in support thereof. The worker, beneficiary, employer, or other person shall be deemed to have waived all objections or irregularities concerning the matter on which such appeal is taken other than those specifically set forth in such notice of appeal or

appearing in the records of the department. The department shall promptly transmit its original record, or a legible copy thereof produced by mechanical, photographic, or electronic means, in such matter to the board. [1977 1st ex.s. c 350 § 77; 1975 1st ex.s. c 224 § 18; 1975 1st ex.s. c 58 § 3; 1961 c 23 § 51.52.070. Prior: 1957 c 70 § 57; 1951 c 225 § 7; prior: 1949 c 219 § 6, part; 1943 c 280 § 1, part; 1931 c 90 § 1, part; 1929 c 132 § 6, part; 1927 c 310 § 8, part; 1911 c 74 § 20, part; Rem. Supp. 1949 § 7697, part.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

51.52.095 Conference for disposal of matters involved in appeal. The board, upon request of the worker, beneficiary, or employer, or upon its own motion, may direct all parties interested in an appeal, together with their attorneys, if any, to appear before it, a member of the board, or an authorized hearing examiner, for a conference for the purpose of determining the feasibility of settlement, the simplification of issues of law and fact, the necessity of amendments to the notice of appeal or other pleadings, the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof, the limitation of the number of expert witnesses, and such other matters as may aid in the disposition of the appeal. Such conference may be held prior to the hearing, or it may be held during the hearing, at the discretion of the board member or hearing examiner conducting the same, in which case the hearing will be recessed for such conference. Following the conference, the board member or hearing examiner conducting the same, shall state on the record the results of such conference, and the parties present or their representatives shall state their concurrence on the record. Such agreement as stated on the record shall control the subsequent course of the proceedings, unless modified at a subsequent hearing to prevent manifest injustice. If agreement concerning final disposition of the appeal is reached by the parties present at the conference, or by the employer and worker or beneficiary, the board may enter a final decision and order in accordance therewith, providing the board finds such agreement is in conformity with the law and the facts. [1977 1st ex.s. c 350 § 78; 1963 c 148 § 3; 1963 c 6 § 1; 1961 c 23 § 51.52.095. Prior: 1951 c 225 § 10.]

51.52.100 Proceedings before board—Contempt. Hearings shall be held in the county of the residence of the worker or beneficiary, or in the county where the injury occurred, at a place designated by the board. Such hearing shall be de novo and summary, but no witness' testimony shall be received unless he or she shall first have been sworn to testify the truth, the whole truth and nothing but the truth in the matter being heard, or unless his or her testimony shall have been taken by deposition according to the statutes and rules relating to superior courts of this state. The department shall be entitled to appear in all proceedings before the board and introduce testimony in support of its order. The board shall cause all oral testimony to be stenographically reported and thereafter transcribed, and

when transcribed, the same, with all depositions, shall be filed in, and remain a part of, the record on the appeal. Such hearings on appeal to the board may be conducted by one or more of its members, or a duly authorized hearing examiner, and depositions may be taken by a person duly commissioned for the purpose by the board.

Members of the board, its duly authorized hearing examiners, and all persons duly commissioned by it for the purpose of taking depositions, shall have power to administer oaths; to preserve and enforce order during such hearings; to issue subpoenas for, and to compel the attendance and testimony of, witnesses, or the production of books, papers, documents, and other evidence, or the taking of depositions before any designated individual competent to administer oaths, and it shall be their duty so to do to examine witnesses; and to do all things conformable to law which may be necessary to enable them, or any of them, effectively to discharge the duties of his or her office.

If any person in proceedings before the board disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, or neglects to produce, after having been ordered so to do, any pertinent book, paper or document, or refuses to appear after having been subpoenaed, or upon appearing refuses to take oath as a witness, or after having the oath refuses to be examined according to law, the board or any member or duly authorized hearing examiner may certify the facts to the superior court having jurisdiction in the place in which said board or member or hearing examiner is sitting; the court shall thereupon, in a summary manner, hear the evidence as to the acts complained of, and, if the evidence so warrants, punish such person in the same manner and to the same extent as for a contempt committed before the court, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the proceedings, or in the presence, of the court. [1977 1st ex.s. c 350 § 79; 1963 c 148 § 4; 1961 c 23 § 51.52.100. Prior: 1957 c 70 § 60; 1951 c 225 § 11; prior: 1949 c 219 § 6, part; 1943 c 280 § 1, part; 1931 c 90 § 1, part; 1929 c 132 § 6, part; 1927 c 310 § 8, part; 1911 c 74 § 20, part; Rem. Supp. 1949 § 7697, part.]

51.52.110 Court appeal—Taking the appeal. Within thirty days after a decision of the board to deny the petition or petitions for review upon such appeal has been communicated to such worker, beneficiary, employer or other person, or within thirty days after the final decision and order of the board upon such appeal has been communicated to such worker, beneficiary, employer or other person, or within thirty days after the appeal is deemed denied as herein provided, such worker, beneficiary, employer or other person aggrieved by the decision and order of the board may appeal to the superior court.

In cases involving injured workers such appeal shall be to the superior court of the county of residence of the worker or beneficiary, as shown by the department's records, or to the superior court of the county wherein

the injury occurred or where neither the county of residence nor the county wherein the injury occurred are in the state of Washington then the appeal may be directed to the superior court for Thurston county. In all other cases the appeal shall be to the superior court of Thurston county. Such appeal shall be perfected by filing with the clerk of the court a notice of appeal and by serving a copy thereof by mail, or personally, on the director and on the board. If the case is one involving a self-insurer, a copy of the notice of appeal shall also be served by mail, or personally, on such self-insurer. The department shall, in all cases not involving a self-insurer, within twenty days after the receipt of such notice of appeal, serve and file its notice of appearance and such appeal shall thereupon be deemed at issue. If the case is one involving a self-insurer, such self-insurer shall, within twenty days after receipt of such notice of appeal, serve and file its notice of appearance and such appeal shall thereupon be deemed to be at issue. In such cases the department may appear and take part in any proceedings. The board shall serve upon the appealing party, the director, the self-insurer if the case involves a self-insurer, and any other party appearing at the board's proceeding, and file with the clerk of the court before trial, a certified copy of the board's official record which shall include the notice of appeal and other pleadings, testimony and exhibits, and the board's decision and order, which shall become the record in such case. No bond shall be required on appeals to the superior court or on appeals to the supreme court or the court of appeals, except that an appeal by the employer from a decision and order of the board under RCW 51.48.070, shall be ineffectual unless, within five days following the service of notice thereof, a bond, with surety satisfactory to the court, shall be filed, conditioned to perform the judgment of the court. Except in the case last named an appeal shall not be a stay: *Provided, however,* That whenever the board has made any decision and order reversing an order of the supervisor of industrial insurance on questions of law or mandatory administrative actions of the director, the department shall have the right of appeal to the superior court. [1977 1st ex.s. c 350 § 80; 1973 c 40 § 1. Prior: 1972 ex.s. c 50 § 1; 1972 ex.s. c 43 § 36; 1971 ex.s. c 289 § 24; 1971 c 81 § 122; 1961 c 23 § 51.52.110; prior: 1957 c 70 § 61; 1951 c 225 § 14; prior: 1949 c 219 § 6, part; 1943 c 280 § 1, part; 1931 c 90 § 1, part; 1929 c 132 § 6, part; 1927 c 310 § 8, part; 1911 c 74 § 20, part; Rem. Supp. 1949 § 7697, part.]

Rules of court: Cf. Title 8 RAP, RAP 18.22.

51.52.120 Attorney's fee before department or board—Unlawful attorney's fees. (1) It shall be unlawful for an attorney engaged in the representation of any worker or beneficiary to charge for services in the department any fee in excess of a reasonable fee, of not more than thirty percent of the increase in the award secured by the attorney's services. Such reasonable fee

shall be fixed by the director for services performed by an attorney for such worker or beneficiary, prior to the notice of appeal to the board if written application therefor is made by the attorney, worker or beneficiary.

(2) If, on appeal to the board, the order, decision or award of the department is reversed or modified and additional relief is granted to a worker or beneficiary, or in cases where a party other than the worker or beneficiary is the appealing party and the worker's or beneficiary's right to relief is sustained by the board, the board shall fix a reasonable fee for the services of his or her attorney in proceedings before the board if written application therefor is made by the attorney, worker or beneficiary. In fixing the amount of such attorney's fee, the board shall take into consideration the fee allowed, if any, by the director, for services before the department, and the board may review the fee fixed by said director. Any attorney's fee set by the department or the board may be reviewed by the superior court upon application of such attorney. Where the board, pursuant to this section, fixes the attorney's fee, it shall be unlawful for an attorney to charge or receive any fee for services before the board in excess of that fee fixed by the board. Any person who violates any provision of this section shall be guilty of a misdemeanor. [1977 1st ex.s. c 350 § 81; 1965 ex.s. c 63 § 1; 1961 c 23 § 51.52.120. Prior: 1951 c 225 § 16; prior: 1947 c 246 § 3; Rem. Supp. 1947 § 7679-3.]

51.52.130 Attorney and witness fees in court appeal.

If, on appeal to the court from the decision and order of the board, said decision and order is reversed or modified and additional relief is granted to a worker or beneficiary, or in cases where a party other than the worker or beneficiary is the appealing party and the worker's or beneficiary's right to relief is sustained by the court, a reasonable fee for the services of the worker's or beneficiary's attorney shall be fixed by the court. In fixing the fee the court shall take into consideration the fee or fees, if any, fixed by the director and the board for such attorney's services before the department and the board. If the court finds that the fee fixed by the director or by the board is inadequate for services performed before the department or board, or if the director or the board has fixed no fee for such services, then the court shall fix a fee for the attorney's services before the department, or the board, as the case may be, in addition to the fee fixed for the services in the court. If the decision and order of the board is reversed or modified and if the accident fund is affected by the litigation then the attorney's fee fixed by the court for services before the court only, and the fees of medical and other witnesses and the costs shall be payable out of the administrative fund of the department. [1977 1st ex.s. c 350 § 82; 1961 c 23 § 51.52.130. Prior: 1957 c 70 § 63; 1951 c 225 § 17; prior: 1949 c 219 § 6, part; 1943 c 280 § 1, part; 1931 c 90 § 1, part; 1929 c 132 § 6, part; 1927 c 310 § 8, part; 1911 c 74 § 20, part; Rem. Supp. 1949 § 7697, part.]

**Title 52
FIRE PROTECTION DISTRICTS**

Chapters

- 52.12 Commissioners.
- 52.24 Mergers.

**Chapter 52.12
COMMISSIONERS**

Sections

- 52.12.050 Vacancies—Procedure for filling—Grounds for declaring office vacant.

52.12.050 Vacancies—Procedure for filling—Grounds for declaring office vacant. In case of vacancy occurring in the office of fire commissioner, such vacancy shall, within thirty days, be filled by appointment of a resident elector of the district by a vote of the remaining fire commissioners and the person appointed shall serve until his successor has been elected or appointed and has qualified. If there should be at the same time such number of vacancies that there are not in office a majority of the full number of commissioners fixed by law, the county legislative authority shall within thirty days of such vacancies appoint the required number to create a majority as prescribed by law to fill the vacancies ad interim through the next general election. At the next general election, if there is sufficient time for the nomination of candidates for office of fire commissioner as herein provided, after the filling of any vacancy in such office as aforesaid, there shall be elected a fire commissioner to serve for the remainder of the unexpired term. If a fire commissioner is absent from the district for three consecutive regularly scheduled meetings unless by permission of the board his office shall be declared vacant by the board of county commissioners and such vacancy shall be filled as provided for in this section but provided that no such action shall be taken unless he is notified by mail after two consecutive unexcused absences that his position will be declared vacant if he is absent without being excused from the next regularly scheduled meeting. [1977 c 64 §1; 1974 ex.s. c 17 § 1; 1971 ex.s. c 153 § 1; 1939 c 34 § 26; RRS § 5654-126.]

**Chapter 52.24
MERGERS**

Sections

- 52.24.085 Board membership upon merger of districts—Subsequent boards.

52.24.085 Board membership upon merger of districts—Subsequent boards. Whenever two or more fire protection districts merge, the board of fire commissioners of the merged fire protection district shall consist of all of the original fire commissioners. At the next three

elections for fire commissioners the number of fire commissioners for the merged district shall be reduced as follows, notwithstanding the number of fire commissioners whose terms expire:

In the first election after the merger, only one position shall be filled, whether the new fire protection district be a three member district or a five member district pursuant to RCW 52.12.015.

In each of the two subsequent elections, one position shall be filled if the new fire protection district is a three member district and two positions shall be filled if the new fire protection district is a five member district pursuant to RCW 52.12.015.

Thereafter, the fire commissioners shall be elected in the same manner as prescribed for such fire protection districts of the state. [1977 1st ex.s. c 121 § 1; 1971 c 55 § 1.]

**Title 53
PORT DISTRICTS**

Chapters

- 53.04 Formation.
- 53.08 Powers.

**Chapter 53.04
FORMATION**

Sections

- 53.04.120 Transfer of port district property to adjacent district—Procedure—Boundary changes—Jurisdiction.

53.04.120 Transfer of port district property to adjacent district—Procedure—Boundary changes—Jurisdiction. Property owned by one port district, which is both located contiguous to such port district and is also located in an adjacent port district, may be transferred to the owning port district upon unanimous resolution of the boards of commissioners of both port districts. The resolution of the port district within which such property is located shall be a resolution to make the transfer, while the resolution of the port district which owns the property shall be a resolution to accept the transferred property. Upon the filing of both official resolutions with the legislative authority and the auditor of the county or counties within which such port districts lie, together with maps showing in reasonable detail the boundary changes made, such transfer shall be effective and the commissioners of the port district receiving such property shall have jurisdiction over the whole of said enlarged port district to the same extent, and with like power and authority, as though the additional territory had been originally embraced within the boundaries of the port district. [1977 1st ex.s. c 91 § 1.]

Chapter 53.08 POWERS

Sections

- 53.08.030 Operation of foreign trade zones.
53.08.085 Lease of property—Security for rent.

53.08.030 Operation of foreign trade zones. A district may apply to the United States for permission to establish, operate, and maintain foreign trade zones within the district: *Provided*, That nothing herein shall be construed to prevent such zones from being operated and financed by a private corporation(s) on behalf of such district acting as zone sponsor: *Provided further*, That when the money so raised is to be used exclusively for the purpose of acquiring land for sites and constructing warehouses, storage plants, and other facilities to be constructed within the zone for use in the operation and maintenance of the zones, the district may contract indebtedness and issue general bonds therefor in an amount, in addition to the three-fourths of one percent hereinafter fixed, of one percent of the value of the taxable property in the district, as the term "value of the taxable property" is defined in RCW 39.36.015, such additional indebtedness only to be incurred with the assent of three-fifths of the voters of the district voting thereon. [1977 1st ex.s. c 196 § 7; 1970 ex.s. c 42 § 31; 1955 c 65 § 4. Prior: 1943 c 166 § 2, part; 1921 c 183 § 1, part; 1917 c 125 § 1, part; 1913 c 62 § 4, part; 1911 c 92 § 4, part; Rem. Supp. 1943 § 9692, part.]

Effective date—1977 1st ex.s. c 196: See note following RCW 24.46.010.

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

Foreign trade zones: Chapter 24.46 RCW.

53.08.085 Lease of property—Security for rent. Every lease of all lands, wharves, docks, and real and personal property of a port district for a term of more than one year shall have the rent secured by rental insurance, bond, or other security satisfactory to the port commission, in an amount equal to one-sixth the total rent, but in no case shall such security be less than an amount equal to one year's rent or more than an amount equal to three years' rent. Evidence of the existence of such insurance, bonds, or security shall be on file with the commission at all times during the term of the lease: *Provided*, That nothing in this section shall prevent the port commission from requiring additional security on leases or provisions thereof, or on other agreements to use port facilities: *Provided further*, That any security agreement may provide for termination on the anniversary date of such agreement on not less than one year's written notice to the port if said lease is not in default at the time of said notice: *Provided further*, That if the security as required herein is not maintained throughout the full term of the lease, said lease shall be considered in default: *Provided, however*, That the port commission may in its discretion waive the rent security requirement or lower the amount of such requirement on the lease of real and/or personal port property to organizations which are organized and/or function under the provisions of chapter 24.03 RCW, the Washington Nonprofit

Corporation Act, as now existing or hereafter amended and which organization has received a declaration of tax-exempt status from the department of internal revenue of the United States government pursuant to section 501 of the internal revenue code of 1954, as amended. [1977 c 41 § 1; 1973 c 87 § 2.]

Title 54

PUBLIC UTILITY DISTRICTS

Chapters

- 54.04 General provisions.
54.08 Formation—Dissolution—Elections.
54.12 Commissioners.
54.16 Powers.
54.28 Privilege taxes.
54.40 First class districts.

Chapter 54.04

GENERAL PROVISIONS

Sections

- 54.04.082 Alternative bid procedure—Telephone and/or written quotations of price.

54.04.082 Alternative bid procedure—Telephone and/or written quotations of price. For the awarding of a contract to purchase any item, or items of the same kind of materials, equipment, or supplies in an amount exceeding five thousand dollars, but less than fifteen thousand dollars, exclusive of sales tax, the commission may, in lieu of the procedure described in RCW 54.04-.070 and 54.04.080 requiring public notice to invite sealed proposals for such materials, equipment, or supplies, authorize by commission resolution a staff procedure for securing telephone and/or written quotations from enough vendors to assure establishment of a competitive price and for awarding such contracts for purchase of materials, equipment, or supplies to the lowest responsible bidder. Immediately after the award is made, the bid quotations obtained shall be recorded and shall be posted or otherwise made available at the office of the commission or any other officially designated location. Waiver of the deposit or bid bond required under RCW 54.04.080 may be authorized by the commission in securing such bid quotations. [1977 1st ex.s. c 116 § 1.]

Chapter 54.08

FORMATION—DISSOLUTION—ELECTIONS

Sections

- 54.08.010 Districts including entire county or less—Procedure.

54.08.010 Districts including entire county or less—Procedure. At any general election held in an even-numbered year the county legislative authority of

any county in this state may, or on petition of ten percent of the qualified electors of such county, based on the total vote cast in the last general county election, shall, by resolution, submit to the voters of such county the proposition of creating a public utility district which shall be coextensive with the limits of such county as now or hereafter established. Such petition shall be filed with the county auditor, who shall within fifteen days examine the signatures thereof and certify to the sufficiency or insufficiency thereof, and for such purpose the county auditor shall have access to all registration books in the possession of election officers within such county. If such petition be found to be insufficient, it shall be returned to the persons filing the same, who may amend or add names thereto for ten days, when the same shall be returned to the county auditor, who shall have an additional fifteen days to examine the same and attach his certificate thereto. No person having signed such petition shall be allowed to withdraw his name therefrom after the filing of the same with the county auditor. Whenever such petition shall be certified to as sufficient, the county auditor shall forthwith transmit the same, together with his certificate of sufficiency attached thereto, to the county legislative authority, which shall thereupon immediately transmit such proposition to the election board of such county, and it shall be the duty of such county election board to submit such proposition to the voters at the next general election. The notice of the election shall state the boundaries of the proposed public utility district and the object of such election, and shall in other respects conform to the requirements of the general laws of the state of Washington, governing the time and manner of holding elections. In submitting the said question to the voters for their approval or rejection, the proposition shall be expressed on said ballot substantially in the following terms:

Public Utility District No. YES
 Public Utility District No. NO

Any petition for the formation of a public utility district may describe a less area than the entire county in which the petition is filed, the boundaries of which shall follow the then existing precinct boundaries and not divide any voting precinct; and in the event that such a petition is filed the county legislative authority shall fix a date for a hearing on such petition, and shall publish the petition, without the signatures thereto appended, for two weeks prior to the date of the hearing, together with a notice stating the time of the meeting when such petition will be heard. Such publication, and all other publications required by this act, shall be in a newspaper published in the proposed or established public utility district, or, if there be no such newspaper, then in a newspaper published in the county in which such district is situated, and of general circulation in such county. The hearing on such petition may be adjourned from time to time, not exceeding four weeks in all. If upon the final hearing the county legislative authority shall find that any lands have been unjustly or improperly included within the proposed public utility district and will not be benefited by inclusion therein, it shall change and fix the

boundary lines in such manner as it shall deem reasonable and just and conducive to the public welfare and convenience, and make and enter an order establishing and defining the boundary lines of the proposed public utility district: *Provided*, That no lands shall be included within the boundaries so fixed lying outside the boundaries described in the petition, except upon the written request of the owners of such lands. Thereafter the same procedure shall be followed as prescribed in this chapter for the formation of a public utility district including an entire county, except that the petition and election shall be confined solely to the lesser public utility district. [1977 c 53 § 1; 1931 c 1 § 3; RRS § 11607. Formerly RCW 54.08.010 and 54.08.020.]

**Chapter 54.12
 COMMISSIONERS**

Sections

- 54.12.010 When district formed—Commissioners—Election—Terms—District boundaries change, etc.
- 54.12.080 Compensation and expenses—Group insurance.

54.12.010 When district formed—Commissioners—Election—Terms—District boundaries change, etc. Within ten days after such election, the election board of the county shall canvass the returns, and if at such election a majority of the voters voting upon such proposition shall vote in favor of the formation of such district, the election board shall so declare in its canvass of the returns of such election, and such public utility district shall then be and become a municipal corporation of the state of Washington, and the name of such public utility district shall be Public Utility District No. of County. The powers of the public utility district shall be exercised through a commission consisting of three members in three commissioner districts, and five members in five commissioner districts. When the public utility district is coextensive with the limits of such county, then, at the first election of commissioners and until any change shall have been made in the boundaries of public utility district commissioner districts, one public utility district commissioner shall be chosen from each of the three county commissioner districts of the county in which the public utility district is located. When the public utility district comprises only a portion of the county, with boundaries established in accordance with chapter 54.08 RCW, three public utility district commissioner districts, numbered consecutively, having approximately equal population and boundaries, following ward and precinct lines, as far as practicable, shall be described in the petition for the formation of the public utility district, which shall be subject to appropriate change by the county commissioners if and when they change the boundaries of the proposed public utility district, and one commissioner shall be elected from each of said public utility district commissioner districts. In all five commissioner districts an additional commissioner at large shall be chosen from each of the two at large districts. No person shall be eligible to be elected to the

office of public utility district commissioner for a particular district commissioner district unless he is a registered voter of the public utility district commissioner district or at large district from which he is elected.

Except as otherwise provided, the term of office of each public utility district commissioner other than the commissioners at large shall be six years, and the term of each commissioner at large shall be four years. Each term shall be computed from the first day of December following the commissioner's election. One commissioner at large and one commissioner from a commissioner district shall be elected at each general election held in an even-numbered year for the term of four years and six years respectively. All candidates shall be voted upon by the entire public utility district.

When a public utility district is formed, three public utility district commissioners shall be elected at the same election at which the proposition is submitted to the voters as to whether such public utility district shall be formed. The commissioner residing in commissioner district number one shall hold office for the term of six years; the commissioner residing in commissioner district number two shall hold office for the term of four years; and the commissioner residing in commissioner district number three shall hold office for the term of two years. The commissioners first to be elected as above provided shall hold office from the first day of the month following the commissioners' election. Each term shall be computed from the first day of December following the commissioners' election.

All public utility district commissioners shall hold office until their successors shall have been elected and have qualified. A filing for nomination for public utility district commissioner shall be accompanied by a petition signed by one hundred registered voters of the public utility district, which shall be certified by the county auditor to contain the required number of registered voters, and shall otherwise be filed in accord with the requirements of RCW 29.21.060. At the time of filing such nominating petition, the person so nominated shall execute and file a declaration of candidacy subject to the provisions of RCW 29.21.060, as now or hereafter amended. The petition and each page of the petition shall state whether the nomination is for a commissioner from a particular commissioner district or for a commissioner at large and shall state the districts; otherwise it shall be void. A vacancy in the office of public utility district commissioner shall occur by death, resignation, removal, conviction of a felony, nonattendance at meetings of the public utility district commission for a period of sixty days unless excused by the public utility district commission, by any statutory disqualification, or by any permanent disability preventing the proper discharge of his duty. In the event of a vacancy in said office, such vacancy shall be filled at the next general election held in an even-numbered year, the vacancy in the interim to be filled by appointment by the remaining commissioners. If more than one vacancy exists at the same time in a three commissioner district, or more than two in a five commissioner district, a special election shall be called by the county election board upon the request of the remainder, or, that failing, by the county election board,

such election to be held not more than forty days after the occurring of such vacancies.

A majority of the persons holding the office of public utility district commissioner at any time shall constitute a quorum of the commission for the transaction of business, and the concurrence of a majority of the persons holding such office at the time shall be necessary and shall be sufficient for the passage of any resolution, but no business shall be transacted, except in usual and ordinary course, unless there are in office at least a majority of the full number of commissioners fixed by law.

The boundaries of the public utility district commissioners' district may be changed only by the public utility district commission, and shall be examined every ten years to determine substantial equality of population, but said boundaries shall not be changed oftener than once in four years, and only when all members of the commission are present. The proposed change of the boundaries of the public utility district commissioners' district must be made by resolution and after public hearing. Notice of the time of a public hearing thereon shall be published for two weeks prior thereto. Upon a referendum petition signed by ten percent of the qualified voters of the public utility district being filed with the county auditor, the board of county commissioners shall submit such proposed change of boundaries to the voters of the public utility district for their approval or rejection. Such petition must be filed within ninety days after the adoption of resolution of the proposed action. The validity of said petition shall be governed by the provisions of chapter 54.08 RCW. [1977 1st ex.s. c 36 § 8; 1977 c 53 § 2; 1969 c 106 § 1; 1959 c 265 § 9; 1941 c 245 § 4; 1931 c 1 § 4; Rem. Supp. 1941 § 11608. Formerly RCW 54.08.030, 54.08.040, 54.12.010 through 54.12.070.]

54.12.080 Compensation and expenses—Group insurance. Each district commissioner of a district operating utility properties shall receive a salary during a calendar year which shall depend upon the total gross revenue of the district from its distribution system and its generating system, if any, for the fiscal year ending June 30th prior to such calendar year, based upon the following schedule:

REVENUE	SALARY
OVER \$15 million	\$500 per month
\$2 to 15 million	\$350 per month

Commissioners of other districts shall serve without salary unless the district provides by resolution for the payment thereof, which however shall not exceed two hundred dollars per month for each commissioner: *Provided*, That a commissioner serving a term of office on September 21, 1977, in a district serving more than two thousand customers but with less than two million dollars gross annual revenue shall receive a salary of two hundred dollars per month through completion of the present term of office. In addition to salary, all districts may provide by resolution for the payment of per diem compensation to each commissioner at a rate not exceeding thirty-five dollars for each day or major part

thereof devoted to the business of the district, and days upon which he attends meetings of the commission of his district or meetings attended by one or more commissioners of two or more districts called to consider business common to them, but such per diem compensation paid during any one year to a commissioner shall not exceed five thousand dollars. Per diem compensation shall not be paid for services of a ministerial or professional nature.

Each district commissioner shall be reimbursed for reasonable expenses actually incurred in connection with such business and meetings, including his subsistence and lodging and travel while away from his place of residence.

Any district providing group insurance for its employees, covering them, their immediate family and dependents, may provide insurance for its commissioner with the same coverage. [1977 1st ex.s. c 157 § 1; 1969 c 106 § 5; 1967 c 161 § 1; 1957 c 140 § 2; 1955 c 124 § 5; 1951 c 207 § 4. Prior: (i) 1931 c 1 § 8, part; RRS § 11612, part. (ii) 1941 c 245 § 6; Rem. Supp. 1941 § 11616-5.]

Chapter 54.16 POWERS

Sections

54.16.180 Sale, lease, disposition of properties—Procedure—Acquisition, operation of sewage system by districts in certain counties.

See Title 57

57.16.010 General comprehensive plan of improvements—Approval of engineer, director of health, and city, town, or county—Amendments. The water district commissioners before ordering any improvements hereunder or submitting to vote any proposition for incurring any indebtedness shall adopt a general comprehensive plan of water supply for the district. They shall investigate the several portions and sections of the district for the purpose of determining the present and reasonably foreseeable future needs thereof; shall examine and investigate, determine and select a water supply or water supplies for such district suitable and adequate for present and reasonably foreseeable future needs thereof; and shall consider and determine a general system or plan for acquiring such water supply or water supplies; and the lands, waters and water rights and easements necessary therefor, and for retaining and storing any such waters, erecting dams, reservoirs, aqueducts and pipe lines to convey the same throughout such district. There may be included as part of the system the installation of fire hydrants at suitable places throughout the district, and the purchase and maintenance of necessary fire fighting equipment and apparatus, together with facilities for housing same. The water district commissioners shall determine a general comprehensive plan for distributing such water throughout such portion of the district as may then reasonably be served by means of subsidiary aqueducts and pipe lines, and the method of distributing the cost and expense thereof against such water district and against local improvement districts or

utility local improvement districts within such water district for any lawful purpose, and including any such local improvement district or utility local improvement district lying wholly or partially within the limits of any city or town in such district, and shall determine whether the whole or part of the cost and expenses shall be paid from water revenue bonds as in this act provided. The commissioners may employ such engineering and legal service as in their discretion is necessary in carrying out the objects and purposes of *this act.

The general comprehensive plan shall be adopted by resolution and submitted to an engineer designated by the legislative authority of the county in which fifty-one percent or more of the area of the district is located, and to the director of health of the county in which the district or any portion thereof is located, and must be approved in writing by the engineer and director of health.

Before becoming effective, the general comprehensive plan shall also be submitted to, and approved by resolution of, the legislative authority of every county within whose boundaries all or a portion of the water district lies. If the district includes portions or all of one or more cities or towns, the general comprehensive plan shall be submitted also to, and approved by resolution of, the legislative authority of cities and towns before becoming effective.

Before becoming effective, any amendment to, alteration of, or addition to, a general comprehensive plan shall also be subject to such approval as if it were a new general comprehensive plan: *Provided*, That only if the amendment, alteration, or addition effects [affects] a particular city or town, shall the amendment, alteration or addition be subject to approval by such particular city or town legislative authority. [1977 1st ex.s. c 299 § 3; 1959 c 108 § 6; 1959 c 18 § 6. Prior: 1939 c 128 § 2, part; 1937 c 177 § 1; 1929 c 114 § 10, part; RRS § 11588. Cf. 1913 c 161 § 10.]

*Reviser's note: "this act" see note following RCW 57.04.020.

54.16.180 Sale, lease, disposition of properties—Procedure—Acquisition, operation of sewage system by districts in certain counties. A district may sell and convey, lease, or otherwise dispose of all or any part of its works, plants, systems, utilities and properties, after proceedings and approval by the voters of the district, as provided for the lease or disposition of like properties and facilities owned by cities and towns: *Provided*, That the affirmative vote of three-fifths of the voters voting at an election on the question of approval of a proposed sale, shall be necessary to authorize such sale: *Provided further*, That a district may sell, convey, lease or otherwise dispose of all or any part of the property owned by it, located outside its boundaries, to another public utility district, city, town or other municipal corporation without the approval of the voters; or may sell, convey, lease, or otherwise dispose of to any person or public body, any part, either within or without its boundaries, which has become unserviceable, inadequate, obsolete, worn out or unfit to be used in the operations of the system and which is no longer necessary, material to, and useful in such operations, without the approval of

the voters: *Provided further*, That a public utility district located within a county of the first class may sell and convey to a city of the first class, which owns its own water system, all or any part of a water system owned by said public utility district where a portion of it is located within the boundaries of such city, without approval of the voters upon such terms and conditions as the district shall determine: *Provided further*, That a public utility district located in a fifth class county and bordered by the Columbia river may, separately or in connection with the operation of a water system, or as part of a plan for acquiring or constructing and operating a water system, or in connection with the creation of another or subsidiary local utility district, may provide for the acquisition or construction, additions or improvements to, or extensions of, and operation of a sewage system within the same service area as in the judgment of the district commission is necessary or advisable in order to eliminate or avoid any existing or potential danger to the public health by reason of the lack of sewerage facilities or by reason of the inadequacy of existing facilities: *And provided further*, That a public utility district located within a county of the first class bordering on Puget Sound may sell and convey to any city of the third class or town all or any part of a water system owned by said public utility district without approval of the voters upon such terms and conditions as the district shall determine. Public utility districts are municipal corporations for the purposes of this section and the commission shall be held to be the legislative body and the president and secretary shall have the same powers and perform the same duties as the mayor and city clerk and the resolutions of the districts shall be held to be ordinances within the meaning of the statutes governing the sale, lease, or other disposal of public utilities owned by cities and towns. [1977 1st ex.s. c 31 § 1; 1963 c 196 § 1; 1959 c 275 § 1; 1955 c 390 § 19. Prior: 1945 c 143 § 1(m); 1931 c 1 § 6(m); Rem. Supp. 1945 § 11610(m).]

**Chapter 54.28
PRIVILEGE TAXES**

Sections

54.28.010	Definitions.
54.28.020	Tax imposed—Rates.
54.28.025	Tax imposed with respect to thermal electric generating facilities—Rate.
54.28.030	Districts' report to department of revenue.
54.28.050	Distribution of tax.
54.28.055	Distribution of tax proceeds from thermal electric generating facilities.
54.28.090	Deposit of funds to credit of taxing district.

54.28.010 Definitions. As used in this chapter:

- (1) "Operating property" means all of the property utilized by a public utility district in the operation of a plant or system for the generation, transmission, or distribution of electric energy for sale;
- (2) "Taxing districts" means counties, cities, towns, school districts, and road districts;
- (3) "Distributes to consumers" means the sale of electric energy to ultimate consumers thereof, and does

not include sales of electric energy for resale by the purchaser;

(4) "Wholesale value" means all costs of a public utility district associated with the generation and transmission of energy from its own generation and transmission system to the point or points of inter-connection with a distribution system owned and used by a district to distribute such energy to consumers, or in the event a distribution system owned by a district is not used to distribute such energy, then the term means the gross revenues derived by a district from the sale of such energy to consumers;

(5) "Thermal electric generating facility" means a steam-powered electrical energy producing facility utilizing nuclear or fossil fuels;

(6) "Placed in operation" means delivery of energy into a transmission or distribution system for use or sale in such a manner as to establish a value accruing to the power plant operator, except operation incidental to testing or startup adjustments;

(7) "Impacted area" for a thermal electric generating facility on a federal reservation means that area in the state lying within thirty-five statute miles of the most commonly used entrance of the federal reservation and which is south of the southern boundary of township fifteen north. [1977 1st ex.s. c 366 § 1; 1967 ex.s. c 26 § 22; 1959 c 274 § 1; 1957 c 278 § 7. Prior: (i) 1941 c 245 § 1, part; Rem. Supp. 1941 § 11616-1, part. (ii) 1949 c 227 § 1(f); Rem. Supp. 1949 § 11616-2(f).]

Effective date—Savings—1967 ex.s. c 26: See note following RCW 82.01.050.

54.28.020 Tax imposed—Rates. There is hereby levied and there shall be collected from every district a tax for the act or privilege of engaging within this state in the business of operating works, plants or facilities for the generation, distribution and sale of electric energy. With respect to each such district, except with respect to thermal electric generating facilities taxed under RCW 54.28.025, such tax shall be the sum of the following amounts: (1) Two percent of the gross revenues derived by the district from the sale of all electric energy which it distributes to consumers who are served by a distribution system owned by the district; (2) five percent of the first four mills per kilowatt-hour of wholesale value of self-generated energy distributed to consumers by a district; (3) five percent of the first four mills per kilowatt-hour of revenue obtained by the district from the sale of self-generated energy for resale. [1977 1st ex.s. c 366 § 2; 1959 c 274 § 2; 1957 c 278 § 2. Prior: 1949 c 227 § 1(a); 1947 c 259 § 1(a); 1941 c 245 § 2(a); Rem. Supp. 1949 § 11616-2(a).]

Severability—1947 c 259: "If any section, subsection, clause, sentence or phrase of this act be for any reason adjudged unconstitutional, such adjudication shall not invalidate the remaining portions of this act, and the legislature hereby declares that it would have enacted this act notwithstanding the omission of the portion so adjudicated invalid." [1947 c 259 § 2.]

54.28.025 Tax imposed with respect to thermal electric generating facilities—Rate. There is hereby levied and there shall be collected from every district operating a thermal electric generating facility, as

defined in RCW 54.28.010 as now or hereafter amended, having a design capacity of two hundred fifty thousand kilowatts or more, located on a federal reservation, which is placed in operation after September 21, 1977, a tax for the act or privilege of engaging within the state in the business of generating electricity for use or sale, equal to one and one-half percent of wholesale value of energy produced for use or sale, except energy used in the operation of component parts of the power plant and associated transmission facilities under control of the person operating the power plant. [1977 1st ex.s. c 366 § 6.]

54.28.030 Districts' report to department of revenue. On or before the fifteenth day of March of each year, each district subject to this tax shall file with the department of revenue a report verified by the affidavit of its manager or secretary on forms prescribed by the department of revenue. Such report shall state (1) the gross revenues derived by the district from the sale of all distributed energy to consumers and the respective amounts derived from such sales within each county; (2) the gross revenues derived by the district from the sale of self-generated energy for resale; (3) the amount of all generated energy distributed from each of the facilities subject to taxation by a district from its own generating facilities, the wholesale value thereof, and the basis on which the value is computed; (4) the total cost of all generating facilities and the cost of acquisition of land and land rights for such facilities or for reservoir purposes in each county; and (5) such other and further information as the department of revenue reasonably may require in order to administer the provisions of this chapter. In case of failure by a district to file such report, the department may proceed to determine the information, which determination shall be contestable by the district only for actual fraud. [1977 1st ex.s. c 366 § 3; 1975 1st ex.s. c 278 § 30; 1959 c 274 § 3; 1957 c 278 § 3. Prior: 1949 c 227 § 1(b); 1947 c 259 § 1(b); 1941 c 245 § 2(b); Rem. Supp. 1949 § 11616-2(b).]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

54.28.050 Distribution of tax. After computing the tax imposed by RCW 54.28.020, the department of revenue shall instruct the state treasurer, after placing four percent in the state general fund, to distribute the balance collected under RCW 54.28.020 subsection (1) to each county in proportion to the gross revenue from sales made within each county; and to distribute the balance collected under RCW 54.28.020 (2) and (3) as follows: If the entire generating facility, including reservoir, if any, is in a single county then all of the balance to the county where such generating facility is located. If any reservoir is in more than one county, then to each county in which the reservoir or any portion thereof is located a percentage equal to the percentage determined by dividing the total cost of the generating facilities, including adjacent switching facilities, into twice the cost of land and land rights acquired for any reservoir within each county, land and land rights to be defined the same as used by the federal power commission. If

the powerhouse and dam, if any, in connection with such reservoir are in more than one county, the balance shall be divided sixty percent to the county in which the owning district is located and forty percent to the other county or counties or if said powerhouse and dam, if any, are owned by a joint operating agency organized under chapter 43.52 RCW, or by more than one district or are outside the county of the owning district, then to be divided equally between the counties in which such facilities are located. If all of the powerhouse and dam, if any, are in one county, then the balance shall be distributed to the county in which the facilities are located.

The provisions of this section shall not apply to the distribution of taxes collected under RCW 54.28.025. [1977 1st ex.s. c 366 § 4; 1975 1st ex.s. c 278 § 32; 1959 c 274 § 4; 1957 c 278 § 5. Prior: 1949 c 227 § 1(d); 1947 c 259 § 1(d); 1941 c 245 § 2(d); Rem. Supp. 1949 § 11616-2(d).]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Effective date—1959 c 274: "The effective date of section 4 of this 1959 amendatory act shall be January 1, 1960." [1959 c 274 § 6.] This applies to RCW 54.28.050.

54.28.055 Distribution of tax proceeds from thermal electric generating facilities. (1) After computing the tax imposed by RCW 54.28.025, the department of revenue shall instruct the state treasurer to distribute the amount collected as follows:

(a) Fifty percent to the state general fund for the support of schools; and

(b) Twenty-two percent to the counties, twenty-three percent to the cities, three percent to the fire protection districts, and two percent to the library districts.

(2) Each county, city, fire protection district and library district shall receive a percentage of the amount for distribution to counties, cities, fire protection districts and library districts, respectively, in the proportion that the population of such district residing within the impacted area bears to the total population of all such districts residing within the impacted area.

(3) If any distribution pursuant to subsection (1)(b) of this this section cannot be made, then that share shall be prorated among the state and remaining local districts.

(4) All distributions directed by this section to be made on the basis of population shall be calculated in accordance with data to be provided by the office of program planning and fiscal management. [1977 1st ex.s. c 366 § 7.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

54.28.090 Deposit of funds to credit of taxing district. The county commissioners of each county shall direct the county treasurer to deposit funds to the credit of each taxing district in the county according to the manner they deem most equitable; except not less than thirty-five percent of all moneys so received shall be apportioned to the school districts within the county having district properties within their limits, and not less

than an amount equal to three-fourths of one percent of the gross revenues obtained by a district from the sale of electric energy within any incorporated city or town shall be remitted to such city or town. Information furnished by the district to the county commissioners shall be the basis for the determination of the amount to be paid to such cities or towns.

The provisions of this section shall not apply to the distribution of taxes collected under RCW 54.28.025. [1977 1st ex.s. c 366 § 5; 1957 c 278 § 10.]

**Chapter 54.40
FIRST CLASS DISTRICTS**

Sections

- 54.40.010 Five commissioner districts—Requirements—Three commissioner districts.
- 54.40.020 Existing districts—Qualifications—Voters' approval.
- 54.40.030 Transmittal of copies of federal hydroelectric license to county auditor.
- 54.40.040 Election to reclassify district as a five commissioner district—Ballot form—Vote required.
- 54.40.050 Petition for reclassification—Certificate of sufficiency—Election, date, notice.
- 54.40.060 Division of district into at large districts.
- 54.40.070 Election of commissioners from at large districts—Special election—Terms.

54.40.010 Five commissioner districts—Requirements—Three commissioner districts. A five commissioner public utility district is a district which shall have a license from the federal power commission to construct a hydroelectric project of an estimated cost of more than two hundred and fifty million dollars, including interest during construction, and which shall have received the approval of the voters of the district to become a five commissioner district as provided herein. All other public utility districts shall be known as three commissioner districts. [1977 1st ex.s. c 36 § 1; 1959 c 265 § 2.]

54.40.020 Existing districts—Qualifications—Voters' approval. Every public utility district which on *the effective date of this amendatory act shall be in existence and have such a license shall be qualified to become a five commissioner district upon approval of the voters of said district, and every public utility district which on *the effective date of this amendatory act shall have become a first class district as previously provided by chapter 265, Laws of 1959 shall be a five commissioner district. [1977 1st ex.s. c 36 § 2; 1959 c 265 § 3.]

***Reviser's note:** "the effective date of this amendatory act" [1977 1st ex.s. c 36] was September 21, 1977, see preface 1977 session laws.

54.40.030 Transmittal of copies of federal hydroelectric license to county auditor. Within five days after a public utility district shall receive a license from the federal power commission to construct a hydroelectric project of an estimated cost of more than two hundred and fifty million dollars, including interest during construction, or, in the case of a district which on *the effective date of this amendatory act is in existence and has such a license within five days of *the effective date of this amendatory act the district shall forward a true

copy of said license, certified by the secretary of the district, to the county auditor of the county wherein said district is located. [1977 1st ex.s. c 36 § 3; 1959 c 265 § 4.]

***Reviser's note:** "the effective date of this amendatory act" [1977 1st ex.s. c 36] was September 21, 1977, see preface 1977 session laws.

54.40.040 Election to reclassify district as a five commissioner district—Ballot form—Vote required. A public utility district shall be classified as a five commissioner district only by approval of the qualified voters of the district. Such approval shall be by an election upon petition as hereinafter provided. In submitting the question to the voters for their approval or rejection, the proposition shall be expressed on the ballot in substantially the following terms:

Shall Public Utility District No. _____ be reclassified a Five Commissioner District for the purpose of increasing the number of commissioners to five YES
NO

Should a majority of the voters voting on the question approve the proposition, the district shall be declared a five commissioner district upon the completion of the canvass of the election returns. [1977 1st ex.s. c 36 § 4; 1959 c 265 § 5.]

54.40.050 Petition for reclassification—Certificate of sufficiency—Election, date, notice. The question of reclassification of a public utility district as a five commissioner public utility district shall be submitted to the voters only upon filing a petition with the county auditor of the county in which said district is located, identifying the district by number and praying that an election be held to determine whether it shall become a five commissioner district. The petition must be signed by a number of qualified voters of the district equal to at least ten percent of the number of voters in the district who voted at the last general election. In addition to the signature of the voter, the petition must indicate each signer's residence address and further indicate whether he is registered in a precinct in an unincorporated area or a precinct in an incorporated area and if the latter, give the name of the city or town wherein he is registered. Said petition shall be presented to the county auditor for verification of the validity of the signatures. Within thirty days after receipt of the petition, the county auditor, in conjunction with the city clerks of the incorporated areas in which any signer is registered, shall determine the sufficiency of the petition. If the petition is found insufficient, the person who filed the same shall be notified by mail and he shall have an additional fifteen days from the date of mailing such notice within which to submit additional signatures, and the county auditor shall have an additional thirty days after the submission of such additional signatures to determine the validity of the entire petition. No signature may be withdrawn after the petition has been filed. If the petition, including these additional signatures if any, is found sufficient, the county auditor shall certify

such fact to the public utility district and if the commissioners of the public utility district have theretofore certified to the county auditor the eligibility of the district for reclassification as provided in this chapter, the county auditor shall submit to the voters of the district the question of whether the district shall become a five commissioner district. Such election shall be held on a date fixed by the county auditor which date shall be held at the next general election after the date on which he certified the sufficiency of the petition. Notice of any election on the question shall be given in the manner prescribed for notice of an election on the formation of a public utility district. [1977 1st ex.s. c 36 § 5; 1959 c 265 § 6.]

54.40.060 Division of district into at large districts. If the reclassification to a five commissioner district is approved by the voters, the public utility district commission within ten days after the results of said election are certified shall divide the public utility district into two districts of as nearly equal population and area as possible, and shall designate such districts as At Large District A and At Large District B. [1977 1st ex.s. c 36 § 6; 1959 c 265 § 7.]

54.40.070 Election of commissioners from at large districts—Special election—Terms. Within thirty days after the public utility district commission shall divide the district into two at large districts, the county legislative authority shall call a special election, to be held at the next scheduled special election called pursuant to RCW 29.13.010, or not more than ninety days after such call, at which time the initial commissioners to such at large districts shall be elected, the person receiving the largest number of votes to serve for four years, and the person receiving the next largest number of votes to serve an initial term of two years. [1977 1st ex.s. c 36 § 7; 1959 c 265 § 8.]

**Title 56
SEWER DISTRICTS**

Chapters

- 56.02 General provisions.
- 56.08 Powers—Comprehensive plan.
- 56.16 Finances.
- 56.20 Utility local improvement districts.

**Chapter 56.02
GENERAL PROVISIONS**

Sections

- 56.02.100 Sewer districts desiring to merge into irrigation districts—Procedure.

56.02.100 Sewer districts desiring to merge into irrigation districts—Procedure. The procedure and provisions of RCW 85.08.830 through 85.08.890, which are applicable to drainage improvement districts, joint

drainage improvement districts, or consolidated drainage improvement districts which desire to merge into an irrigation district, shall also apply to sewer districts organized, or reorganized, under this title which desire to merge into irrigation districts.

The authority granted by this section shall be cumulative and in addition to any other power or authority granted by law to any sewer district. [1977 1st ex.s. c 208 § 3.]

Merger of irrigation district with drainage, joint drainage, consolidated drainage improvement, or sewer district: RCW 87.03.720–87.03.725.

**Chapter 56.08
POWERS—COMPREHENSIVE PLAN**

Sections

- 56.08.013 Authority to reduce pollutants in lakes, streams, and waterways.
- 56.08.020 General comprehensive plan—Approval of engineer, director of health, and city, town or county—Amendments.
- 56.08.050 Commissioners to carry out plan.

56.08.013 Authority to reduce pollutants in lakes, streams, and waterways. Where a sewer district contains within its borders, abuts, or is located adjacent to any lake, stream, or other waterway within the state of Washington, by resolution the board of commissioners may provide for the reduction, minimization, or elimination of pollutants from these waters and may authorize the issuance of general obligation bonds within the limits prescribed by RCW 56.16.010, revenue bonds, local improvement district bonds, or utility local improvement bonds for the purpose of paying all or any part of the cost of reducing, minimizing, or eliminating the pollutants from these waters. [1977 1st ex.s. c 146 § 1.]

56.08.020 General comprehensive plan—Approval of engineer, director of health, and city, town or county—Amendments. The sewer commissioners before ordering any improvements hereunder or submitting to vote any proposition for incurring indebtedness shall adopt a general comprehensive plan for a system of sewers for the district. They shall investigate all portions and sections of the district and select a general comprehensive plan for a system of sewers for the district suitable and adequate for present and reasonably foreseeable future needs thereof. The general comprehensive plan shall provide for treatment plants and other methods for the disposal of sewage and industrial and other liquid wastes now produced or which may reasonably be expected to be produced within the district and shall, for such portions of the district as may then reasonably be served, provide for the acquisition or construction and installation of laterals, trunk sewers, intercepting sewers, syphons, pumping stations, or other sewage collection facilities. The general comprehensive plan shall provide the method of distributing the cost and expense of the sewer system provided therein against the district and against utility local improvement districts within the district, including any utility local

improvement district lying wholly or partially within any other political subdivision included in the district; and provide whether the whole or some part of the cost and expenses shall be paid from sewer revenue bonds. The commissioners may employ such engineering and legal services as they deem necessary in carrying out the purposes hereof. The general comprehensive plan shall be adopted by resolution and submitted to an engineer designated by the legislative authority of the county in which fifty-one percent or more of the area of the district is located, and to the director of health of the county in which the district or any portion thereof is located, and must be approved in writing by the engineer and director of health.

Before becoming effective, the general comprehensive plan shall also be submitted to, and approved by resolution of, the legislative authority of every county within whose boundaries all or a portion of the sewer district lies. If the district includes portions or all of one or more cities or towns, the general comprehensive plan shall be submitted also to, and approved by resolution of, the legislative authority of cities and towns before becoming effective.

Before becoming effective, any amendment to, alteration of, or addition to, a general comprehensive plan shall also be subject to such approval as if it were a new general comprehensive plan: *Provided*, That only if the amendment, alteration, or addition, effects [affects] a particular city or town, shall the amendment, alteration, or addition be subject to approval by such particular city or town legislative authority. [1977 1st ex.s. c 300 § 1; 1971 ex.s. c 272 § 2; 1959 c 103 § 2; 1953 c 250 § 4; 1947 c 212 § 2; 1945 c 140 § 10; 1943 c 74 § 2; 1941 c 210 § 11; Rem. Supp. 1947 § 9425-20.]

Additions and betterments to original comprehensive plan: RCW 56.16.030.

Construction of sewerage system for municipality: Chapter 35.67 RCW.

56.08.050 Commissioners to carry out plan. When the electors of a district have authorized the issuance of general obligation bonds of the district to carry out the general comprehensive plan, the commissioners may proceed with the improvement to the extent specified or referred to in the proposition or propositions to incur the indebtedness and issue the bonds. In the event no general obligation bonds are authorized to be issued to carry out the general comprehensive plan, the commissioners may proceed with the improvement authorized in the general comprehensive plan after they have authorized, by resolution, the issuance of revenue bonds for the construction of such improvement. The amount of the revenue bonds to be issued shall be included in the resolution submitted. [1977 1st ex.s. c 300 § 2; 1953 c 250 § 7; 1941 c 210 § 15; Rem. Supp. 1941 § 9425-24.]

**Chapter 56.16
FINANCES**

Sections

- 56.16.020 Revenue bonds authorized.
- 56.16.030 Additions and betterments.

- 56.16.035 Additional revenue bonds for increased cost of improvements.
- 56.16.100 Collection of charges—Lien.
- 56.16.110 Foreclosure of lien for charges.
- 56.16.115 Refunding bonds.

56.16.020 Revenue bonds authorized. The sewer commissioners may, by resolution, issue revenue bonds for the construction costs, interest during the period of construction and six months thereafter, working capital, or other costs of any part or all of the general comprehensive plan without submitting a proposition therefor to the voters. The resolution shall include the amount of the bonds to be issued. [1977 1st ex.s. c 300 § 3; 1959 c 103 § 5; 1953 c 250 § 11; 1951 c 129 § 2; 1941 c 210 § 16; Rem. Supp. 1941 § 9425-25.]

Special assessments and taxation for local improvements: State Constitution Art. 7 § 9.

56.16.030 Additions and betterments. In the same manner as herein provided for the adoption of the general comprehensive plan, and after the adoption of the general comprehensive plan, a plan providing for additions and betterments to the general comprehensive plan, or reorganized district may be adopted. Without limiting its generality "additions and betterments" shall include any necessary change in, amendment of, or addition to the general comprehensive plan. The sewer district may incur a general indebtedness payable from annual tax levies to be made in excess of the constitutional and/or statutory tax limitations for the construction of the additions and betterments in the same way the general indebtedness may be incurred for the construction of the general comprehensive plan. Upon ratification by the voters of the entire district, of the proposition to incur such indebtedness, the additions and betterments may be carried out by the sewer commissioners to the extent specified or referred to in the proposition to incur such general indebtedness. The sewer district may issue revenue bonds to pay for the construction of the additions and betterments by resolution of the board of sewer commissioners. [1977 1st ex.s. c 300 § 4; 1973 1st ex.s. c 195 § 64; 1959 c 103 § 6; 1953 c 250 § 12; 1951 2nd ex.s. c 26 § 2; 1951 c 129 § 3; 1945 c 140 § 11; 1941 c 210 § 17; Rem. Supp. 1945 § 9425-26.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.
Adoption of general comprehensive plan: RCW 56.08.020.

56.16.035 Additional revenue bonds for increased cost of improvements. Whenever a sewer district shall have adopted a general comprehensive plan, and bonds to defray the cost thereof shall have been authorized by the board of commissioners, and if before completion of the improvements the board of commissioners shall by resolution find that the authorized bonds are not sufficient to defray the cost of such improvements due to the increase of costs of construction subsequent to the adoption of said plan, the board of commissioners may, by resolution, authorize the issuance and sale of additional sewer revenue bonds for such purpose in excess of those previously issued. [1977 1st ex.s. c 300 § 5; 1959 c 103 § 7.]

56.16.100 Collection of charges—Lien. The commissioners shall enforce collection of the sewer connection charges and sewerage disposal service charges against property to which and its owners to whom the service is available, such charges being deemed charges against the property to which the service is available, by addition of penalties of not more than ten percent thereof in case of failure to pay the charges at times fixed by resolution. The commissioners may provide by resolution that where either sewer connection charges or sewer service charges are delinquent for any specified period of time, the district shall certify the delinquencies to the treasurer of the county in which the real property is located, and the charges and any penalties added thereto and interest thereon at the rate fixed by resolution, shall be a lien against the property to which the service was available, subject only to the lien for general taxes. [1977 1st ex.s. c 300 § 6; 1971 ex.s. c 272 § 5; 1953 c 250 § 14; 1941 c 210 § 23; Rem. Supp. 1941 § 9425–32.]

56.16.110 Foreclosure of lien for charges. The district may, at any time after the sewer connection charges or sewerage disposal service charges and penalties provided for in RCW 56.16.100, as now or hereafter amended, are delinquent for a period of sixty days, bring suit in foreclosure by civil action in the superior court of the county in which the real property is situated. The court may allow, in addition to the costs and disbursements provided by statute, such an attorney's fee as it may adjudge reasonable. The action shall be in rem against the property, and in addition may be brought in the name of the district against an individual, or against all of those who are delinquent in one action, and the laws and rules of the court shall control as in other civil actions. [1977 1st ex.s. c 300 § 7; 1971 ex.s. c 272 § 6; 1953 c 250 § 15; 1941 c 210 § 24; Rem. Supp. 1941 § 9425–33.]

56.16.115 Refunding bonds. The board of sewer commissioners may by resolution, without submitting the matter to the voters of the district, authorize the issuance of refunding general obligation bonds to refund any outstanding general obligation bonds, or any part thereof, at maturity thereof, or before the maturity thereof, if they are subject to call for prior redemption, or if all of the holders thereof consent thereto. The total cost to the district over the life of the refunding bonds shall not exceed the total cost, which the district would have incurred but for such refunding, over the remainder of the life of the bonds being refunded. The provisions of RCW 56.16.040 specifying the form and maturities of general obligation bonds and providing for annual tax levies in excess of the constitutional and/or statutory tax limitations shall apply to the refunding general obligation bonds issued under this title.

The board of sewer commissioners may by resolution provide for the issuance of refunding revenue bonds to refund outstanding general obligation bonds and/or revenue bonds, or any part thereof, at maturity thereof, or before maturity thereof, if they are subject to call for prior redemption, or if all of the holders thereof consent

thereto. The total cost to the district over the life of said refunding revenue bonds shall not exceed the total cost, which the district would have incurred but for such refunding, over the remainder of the life of the bonds being refunded. Uncollected assessments originally payable into the revenue bond fund of a refunded revenue bond issue shall be paid into the revenue bond fund of the refunding issue. The provisions of RCW 56.16.060 specifying the form and maturities of revenue bonds shall apply to the refunding revenue bonds issued under this title.

Refunding general obligation bonds or refunding revenue bonds may be exchanged for the bonds being refunded or may be sold in such manner as the sewer commissioners shall deem for the best interest of the sewer district. [1977 1st ex.s. c 300 § 8; 1973 1st ex.s. c 195 § 66; 1959 c 103 § 12; 1953 c 250 § 16.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Chapter 56.20

UTILITY LOCAL IMPROVEMENT DISTRICTS

Sections

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| 56.20.015 | Certain powers of cities and water districts granted to sewer districts. |
| 56.20.020 | Petition or resolution to form local district—Procedure—Written protest. |
| 56.20.110 | Service fees for sewers not constructed within ten years after voter approval—Credit against future assessments, service charges. |

56.20.015 Certain powers of cities and water districts granted to sewer districts. In addition to all of the powers and authorities set forth in Title 56 RCW, any sewer district shall have all of the powers of cities as set forth in chapter 35.44 RCW. Sewer districts may also exercise all of the powers permitted to a water district under Title 57 RCW relating to the constructing, maintaining, and operating of water supply systems. [1977 1st ex.s. c 300 § 9; 1974 ex.s. c 58 § 4.]

56.20.020 Petition or resolution to form local district—Procedure—Written protest. Utility local improvement districts to carry out all or any portion of the comprehensive plan, or additions and betterments thereof, adopted for the sewer district may be initiated either by resolution of the board of sewer commissioners 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 limits of the utility local improvement district to be created.

In case the board of sewer commissioners shall desire to initiate the formation of a utility 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 utility local improvement district, 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 district, and fixing a date, time and place for a public hearing on the formation of the proposed local district, which date shall, unless there is an emergency, be no less than thirty days and no more than ninety days from the day the resolution of intention was adopted.

In case any such utility 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 utility local improvement district to be created. Upon the filing of such petition with the secretary of the board of sewer commissioners, 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 sewer commissioners. 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 district, 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.

Notice of the adoption of the resolution of intention, whether the resolution was 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 sewer commissioners. Notice of the adoption of the resolution of intention shall also 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. Whenever such notices are mailed, the sewer commissioners shall maintain a list of such reputed property owners, which list shall be kept on file at a location within the sewer district and shall be made available for public perusal. The notices shall refer to the resolution of intention and designate the proposed improvement district by number. Said notices shall also set forth the nature of the proposed improvement, the total estimated cost, the proportion of total cost to be borne by assessments, the date, time and place of the hearing before the board of sewer commissioners. In the case of improvements initiated by resolution, said notice shall also: (1) 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 sewer commissioners before the time fixed for said public

hearing; (2) state that if owners of at least forty percent of the area of land within the proposed district file written protests with the secretary of the board, the power of the sewer commissioners to proceed with the creation of the proposed district shall be divested; (3) provide the name and address of the secretary of the board; and (4) state the hours and location within the sewer district where the names of the property owners within the proposed district are kept available for public perusal. In the case of the notice given each owner or reputed owner by mail, the notice shall set forth the estimated amount of the cost and expense of such improvement to be borne by the particular lot, tract, parcel of land or other property. [1977 1st ex.s. c 300 § 10; 1974 ex.s. c 58 § 5; 1965 ex.s. c 40 § 1; 1953 c 250 § 17; 1941 c 210 § 27; Rem. Supp. 1941 § 9425-36.]

56.20.110 Service fees for sewers not constructed within ten years after voter approval—Credit against future assessments, service charges. See RCW 35.43.260.

Title 57 WATER DISTRICTS

Chapters

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| 57.08 | Powers. |
| 57.16 | Comprehensive plan—Local improvement districts. |
| 57.20 | Finances. |

Chapter 57.08 POWERS

Sections

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| 57.08.015 | Sale of unnecessary property authorized—Notice. |
| 57.08.090 | Rates and charges—Foreclosure for delinquency—Costs—Fees—Cut off of service. |

57.08.015 Sale of unnecessary property authorized—Notice. The board of commissioners of a water district may sell, at public or private sale, property belonging to the district if the board determines by unanimous vote of the elected members of the board that the property is not and will not be needed for district purposes and if the board gives notice of intention to sell as in this section provided: *Provided*, That no such notice of intention shall be required to sell personal property of less than two hundred-fifty dollars in value.

The notice of intention to sell shall be published once a week for three consecutive weeks in a newspaper of general circulation in the district. The last publication shall be at least twenty days but not more than thirty days before the date of sale. The notice shall describe the property and state the time and place at which it will be sold or offered for sale, the terms of sale, whether the property is to be sold at public or private sale, and if at public sale the notice shall call for bids, fix the conditions thereof and shall reserve the right to reject any and all bids. [1977 1st ex.s. c 299 § 2; 1953 c 50 § 1.]

57.08.090 Rates and charges—Foreclosure for delinquency—Costs—Fees—Cut off of service. The district may, at any time after the connection charges or rates and charges for water supplied and penalties are delinquent for a period of sixty days, bring suit in foreclosure by civil action in the superior court of the county in which the district is situated. The court may allow, in addition to the costs and disbursements provided by statute, such an attorney's fee as it adjudges reasonable. The action shall be in rem, and may be brought in the name of the district against an individual, or against all of those who are delinquent in one action, and the laws and rules of the court shall control as in other civil actions.

In addition to the right to foreclose provided in this section, the district may also cut off all or part of the service after charges for water supplied are delinquent for a period of sixty days. [1977 1st ex.s. c 299 § 1; 1959 c 108 § 3.]

Chapter 57.16

COMPREHENSIVE PLAN—LOCAL IMPROVEMENT DISTRICTS

Sections

- 57.16.010 General comprehensive plan of improvements—Approval of engineer, director of health, and city, town, or county—Amendments.
- 57.16.030 Revenue bonds authorized—Use.
- 57.16.035 Additional revenue bonds for increased cost of improvements.
- 57.16.040 Additions and betterments.
- 57.16.060 Resolution or petition to form district—Procedure—Written protest—Improvement ordered—Divestment of power to order.

57.16.010 General comprehensive plan of improvements—Approval of engineer, director of health, and city, town, or county—Amendments. The water district commissioners before ordering any improvements hereunder or submitting to vote any proposition for incurring any indebtedness shall adopt a general comprehensive plan of water supply for the district. They shall investigate the several portions and sections of the district for the purpose of determining the present and reasonably foreseeable future needs thereof; shall examine and investigate, determine and select a water supply or water supplies for such district suitable and adequate for present and reasonably foreseeable future needs thereof; and shall consider and determine a general system or plan for acquiring such water supply or water supplies; and the lands, waters and water rights and easements necessary therefor, and for retaining and storing any such waters, erecting dams, reservoirs, aqueducts and pipe lines to convey the same throughout such district. There may be included as part of the system the installation of fire hydrants at suitable places throughout the district, and the purchase and maintenance of necessary fire fighting equipment and apparatus, together with facilities for housing same. The water district commissioners shall determine a general comprehensive plan for distributing such water throughout such portion of the district as may then reasonably be served by means of

subsidiary aqueducts and pipe lines, and the method of distributing the cost and expense thereof against such water district and against local improvement districts or utility local improvement districts within such water district for any lawful purpose, and including any such local improvement district or utility local improvement district lying wholly or partially within the limits of any city or town in such district, and shall determine whether the whole or part of the cost and expenses shall be paid from water revenue bonds as in this act provided. The commissioners may employ such engineering and legal service as in their discretion is necessary in carrying out the objects and purposes of *this act.

The general comprehensive plan shall be adopted by resolution and submitted to an engineer designated by the legislative authority of the county in which fifty-one percent or more of the area of the district is located, and to the director of health of the county in which the district or any portion thereof is located, and must be approved in writing by the engineer and director of health.

Before becoming effective, the general comprehensive plan shall also be submitted to, and approved by resolution of, the legislative authority of every county within whose boundaries all or a portion of the water district lies. If the district includes portions or all of one or more cities or towns, the general comprehensive plan shall be submitted also to, and approved by resolution of, the legislative authority of cities and towns before becoming effective.

Before becoming effective, any amendment to, alteration of, or addition to, a general comprehensive plan shall also be subject to such approval as if it were a new general comprehensive plan: *Provided*, That only if the amendment, alteration, or addition effects [affects] a particular city or town, shall the amendment, alteration or addition be subject to approval by such particular city or town legislative authority. [1977 1st ex.s. c 299 § 3; 1959 c 108 § 6; 1959 c 18 § 6. Prior: 1939 c 128 § 2, part; 1937 c 177 § 1; 1929 c 114 § 10, part; RRS § 11588. Cf. 1913 c 161 § 10.]

***Reviser's note:** "this act" see note following RCW 57.04.020.

57.16.030 Revenue bonds authorized—Use. The commissioners may, without submitting a proposition to the voters, authorize by resolution the district to issue revenue bonds for the construction costs, interest during the period of construction and six months thereafter, working capital or other costs of any part or all of the general comprehensive plan. The amount of the bonds to be issued shall be included in the resolution submitted.

Any resolution authorizing the issuance of revenue bonds may include provision for refunding any local improvement district bonds of a district, out of the proceeds of sale of revenue bonds, and a district may pay off any outstanding local improvement bonds with such funds either by purchase in the open market below their par value and accrued interest or by call at par value and accrued interest at the next succeeding coupon maturity date.

When a resolution authorizing revenue bonds has been adopted the commissioners may forthwith carry out the

general comprehensive plan to the extent specified. [1977 1st ex.s. c 299 § 4; 1959 c 108 § 8; 1959 c 18 § 8. Prior: 1953 c 251 § 6; 1951 c 112 § 1; 1939 c 128 § 2, part; 1937 c 177 § 1, part; 1929 c 114 § 10, part; RRS § 11588, part. Cf. 1913 c 161 § 10, part.]

57.16.035 Additional revenue bonds for increased cost of improvements. Whenever a water district shall have adopted a general comprehensive plan and bonds to defray the cost thereof shall have been authorized by resolution of the board of water commissioners, and before the completion of the improvements the board of water commissioners shall find by resolution that the authorized bonds are not sufficient to defray the cost of such improvements due to the increase of costs of construction subsequent to the adoption of said plan, the board of water commissioners may by resolution authorize the issuance and sale of additional water revenue bonds for such purpose in excess of those previously issued. [1977 1st ex.s. c 299 § 5; 1959 c 108 § 10.]

57.16.040 Additions and betterments. In the same manner as provided for the adoption of the original general comprehensive plan, a plan providing for additions and betterments to the original general comprehensive plan may be adopted. Without limiting its generality "additions and betterments" shall include any necessary change in, amendment of or addition to the general comprehensive plan.

The district may incur a general indebtedness payable from annual tax levies to be made in excess of the constitutional and/or statutory tax limitations for the construction of the additions and betterments in the same way that general indebtedness may be incurred for the construction of the original general comprehensive plan after submission to the voters of the entire district in the manner the original proposition to incur indebtedness was submitted. Upon ratification the additions and betterments may be carried out by the commissioners to the extent specified or referred to in the proposition to incur the general indebtedness.

The district may issue revenue bonds to pay for the construction of the additions and the betterments pursuant to resolution of the board of water commissioners. [1977 1st ex.s. c 299 § 6; 1973 1st ex.s. c 195 § 70; 1959 c 108 § 9; 1959 c 18 § 9. Prior: 1953 c 251 § 7; 1951 2nd ex.s. c 25 § 2; 1951 c 112 § 2; 1939 c 128 § 2, part; 1937 c 177 § 1, part; 1929 c 114 § 10, part; RRS § 11588, part. Cf. 1913 c 161 § 10, part.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

57.16.060 Resolution or petition to form district—Procedure—Written protest—Improvement ordered—Divestment of power to order. Local improvement districts or utility local improvement districts to carry out the whole or any portion of the general comprehensive plan of improvements or plan providing for additions and betterments to the original general comprehensive plan previously adopted may be initiated either by resolution of the board of water commissioners 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 limits of the local improvement district to be created.

In case the board of water commissioners shall desire to initiate the formation of a local improvement district or a utility 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 local improvement district or utility local improvement district, and 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 district, and fixing a date, time and place for a public hearing on the formation of the proposed local district.

In case any such local improvement district or utility local improvement district shall be initiated by petition, such petition shall set forth the nature and territorial extent of the proposed improvement requested to be ordered 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 or utility local improvement district to be created. Upon the filing of such petition 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 the petition after the same has been filed with the board of water commissioners. 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 district and 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.

Notice of the adoption of the resolution of intention, whether the resolution was 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 water commissioners. Notice of the adoption of the resolution of intention shall also 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. Whenever such notices are mailed, the water commissioners shall maintain a list of such reputed property owners, which list shall be kept on file at a location within the water district and shall be made available for public perusal. The notices shall refer

to the resolution of intention and designate the proposed improvement district by number. Said notices shall also set forth the nature of the proposed improvement, the total estimated cost, the proportion of total cost to be borne by assessments, the date, time and place of the hearing before the board of water commissioners. In the case of improvements initiated by resolution, said notice shall also: (1) 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 water commissioners before the time fixed for said public hearing; (2) state that if owners of at least forty percent of the area of land within the proposed district file written protests with the secretary of the board, the power of the water commissioners to proceed with the creation of the proposed district shall be divested; (3) provide the name and address of the secretary of the board; and (4) state the hours and location within the water district where the names of the property owners within the proposed district are kept available for public perusal. In the case of the notice given each owner or reputed owner by mail, the notice shall set forth the estimated amount of the cost and expense of such improvement to be borne by the particular lot, tract, parcel of land or other property.

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 the 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 commissioners shall have jurisdiction to overrule protests and proceed with any such improvement initiated by petition or resolution: *Provided*, That the jurisdiction of the commissioners to proceed with any improvement initiated by resolution shall be divested by protests filed with the secretary of the board prior to said public hearing 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.

If the commissioners find that the district should be formed, they shall by resolution order the improvement, provide the general funds of the water district to be applied thereto, adopt detailed plans of the local improvement district or utility 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 water district such eminent domain proceedings as may be necessary to entitle the district to proceed with the work. The board shall thereupon 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 improvement district in proportion to the special benefits to be derived by the property therein from the improvement. [1977 1st ex.s. c 299 § 7; 1965 ex.s. c 39 § 1; 1959 c 18 § 11. Prior: 1953 c 251 § 14; 1929 c 114 § 12, part; RRS § 11590, part. Cf. 1913 c 161 § 12, part.]

Chapter 57.20 FINANCES

Sections

57.20.025 Refunding revenue bonds.

57.20.025 Refunding revenue bonds. The board of water commissioners of any water district may by resolution provide for the issuance of refunding revenue bonds to refund outstanding general obligation bonds and/or revenue bonds, or any part thereof, and/or all outstanding local improvement district bonds, at maturity thereof, or before maturity thereof if they are subject to call for prior redemption or all of the holders thereof consent thereto. The total interest cost to the district over the life of the refunding bonds shall not exceed the total cost to the district which the district would have incurred but for such refunding over the remainder of the life of the bonds to be refunded thereby. The refunding bonds may be exchanged for the bonds to be refunded thereby, or may be sold in such manner as the board of water commissioners deems to be for the best interest of the district, and the proceeds used, except as hereinafter provided, exclusively for the purpose of paying, retiring and canceling the bonds to be refunded and interest thereon.

All unpaid utility local improvement district assessments payable into the revenue bond redemption fund established for payment of the bonds to be refunded shall thereafter when collected be paid into the revenue bond redemption fund established for payment of the refunding revenue bonds.

Whenever local improvement district bonds have been refunded as provided by RCW 57.16.030 as now or hereafter amended, or pursuant to this section, all local improvement district assessments remaining unpaid shall thereafter when collected be paid into the revenue bond redemption fund established for payment of the refunding revenue bonds, and the cash balance, if any, in the local improvement guaranty fund of the district and the proceeds received from any other assets owned by such fund shall be used in whole or in part as a reserve fund for the refunding revenue bonds or be transferred in whole or in part to any other funds of the district as the board of water commissioners may determine. In the event that any warrants are outstanding against the local improvement guaranty fund of the district at the time of the issuance of such refunding revenue bonds, said bonds shall be issued in an amount sufficient also to fund and pay such outstanding warrants.

The provisions of RCW 57.20.020 shall apply to the refunding revenue bonds issued under this title. [1977 1st ex.s. c 299 § 8; 1959 c 108 § 13; 1953 c 251 § 17.]

Title 58 BOUNDARIES AND PLATS

Chapters

- 58.17 Plats—Subdivisions—Dedications.
58.19 Land development act.

Chapter 58.17

PLATS—SUBDIVISIONS—DEDICATIONS

Sections

- 58.17.330 Hearing examiner system—Adoption authorized—Procedures—Decisions.

58.17.330 Hearing examiner system—Adoption authorized—Procedures—Decisions. As an alternative to those provisions of this chapter requiring a planning commission to hear and issue recommendations for plat approval, the county or city legislative body may adopt a hearing examiner system and shall specify by ordinance the legal effect of the decisions made by the examiner. The legal effect of such decisions shall include one of the following:

(1) The decision may be given the effect of a recommendation to the legislative body;

(2) The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative body.

The legislative authority shall prescribe procedures to be followed by a hearing examiner.

Each final decision of a hearing examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Each final decision of a hearing examiner, unless a longer period is mutually agreed to by the applicant and the hearing examiner, shall be rendered within ten working days following conclusion of all testimony and hearings. [1977 1st ex.s. c 213 § 4.]

Severability—1977 1st ex.s. c 213: See note following RCW 35.63.130.

Chapter 58.19

LAND DEVELOPMENT ACT

Sections

- 58.19.185 Requiring purchaser to pay additional sum to construct, complete or maintain development.

58.19.185 Requiring purchaser to pay additional sum to construct, complete or maintain development. It shall be unlawful for the developer to sell a lot or parcel within a development if the terms of the sale require that the purchaser pay any sum in addition to the purchase price for constructing, completing, or maintaining improvements to the development unless the sums are to be paid directly to:

- (1) A governmental agency;
- (2) A person who is not affiliated with the developer, in trust, and on terms acceptable to the director; or

(3) An association comprised solely of persons who have purchased lots in the development, or their assignees.

The terms which require the payment of any additional sum shall be set forth in the public offering statement. [1977 1st ex.s. c 252 § 1.]

Title 59

LANDLORD AND TENANT

Chapters

- 59.18 Residential landlord-tenant act.
59.20 Mobile home landlord-tenant act.

Chapter 59.18

RESIDENTIAL LANDLORD-TENANT ACT

(Revised June 15, 1977 pursuant to the Washington Supreme Court decision in cause number 43879 entitled WASHINGTON ASS'N. OF APARTMENT ASS'NS., INC. vs. EVANS; 88 Wn. 2d. 563, which declared invalid the fourteen item and section vetoes to 1973 Engrossed Substitute Senate Bill No. 2226; 1973 1st ex. sess., chapter 207. The governor exercised his veto power by attempting to excise parts of sections 6, 7, 8, 11, 19, 23, 24, 25, and 31 and all of sections 43 and 47. The vetoed matter is herein restored as parts of RCW 59.18.060, 59.18.070, 59.18.080, 59.18.110, 59.18.190, 59.18.230, 59.18.240, 59.18.250, 59.18.310; and in new sections RCW 59.18.415 and 59.18.430.)

Sections

- 59.18.010 Short title.
59.18.020 Rights and remedies—Obligation of good faith imposed.
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59.18.060 Landlord—Duties.
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59.18.400	Forcible entry or detainer or unlawful detainer actions—Writ of restitution—Answer of defendant.
59.18.410	Forcible entry or detainer or unlawful detainer actions—Writ of restitution—Judgment—Execution.
59.18.415	Applicability to certain single family dwelling leases.
59.18.420	RCW 59.12.090, 59.12.100, 59.12.121 and 59.12.170 inapplicable.
59.18.430	Applicability to prior, existing or future leases.
59.18.900	Severability—1973 1st ex.s. c 207.

59.18.010 Short title. RCW 59.18.010 through 59.18.420 and 59.18.900 shall be known and may be cited as the "Residential Landlord-Tenant Act of 1973", and shall constitute a new chapter in Title 59 RCW. [1973 1st ex.s. c 207 § 1.]

59.18.020 Rights and remedies—Obligation of good faith imposed. Every duty under this chapter and every act which must be performed as a condition precedent to the exercise of a right or remedy under this chapter imposes an obligation of good faith in its performance or enforcement. [1973 1st ex.s. c 207 § 2.]

59.18.030 Definitions. As used in this chapter:

(1) "Dwelling unit" is a structure or that part of a structure which is used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household, including but not limited

to single family residences and units of multiplexes, apartment buildings, and mobile homes.

(2) "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the landlord.

(3) "Person" means an individual, group of individuals, corporation, government, or governmental agency, business trust, estate, trust, partnership, or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(4) "Owner" means one or more persons, jointly or severally, in whom is vested:

(a) All or any part of the legal title to property; or

(b) All or part of the beneficial ownership, and a right to present use and enjoyment of the property.

(5) "Premises" means a dwelling unit, appurtenances thereto, grounds, and facilities held out for the use of tenants generally and any other area or facility which is held out for use by the tenant.

(6) "Rental agreement" means all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.

(7) A "single family residence" is a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it shall be deemed a single family residence if it has direct access to a street and shares neither heating facilities nor hot water equipment, nor any other essential facility or service, with any other dwelling unit.

(8) A "tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

(9) "Reasonable attorney's fees", where authorized in this chapter, means an amount to be determined including the following factors: The time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service properly, the fee customarily charged in the locality for similar legal services, the amount involved and the results obtained, and the experience, reputation and ability of the lawyer or lawyers performing the services. [1973 1st ex.s. c 207 § 3.]

59.18.040 Living arrangements exempted from chapter. The following living arrangements are not intended to be governed by the provisions of this chapter, unless established primarily to avoid its application, in which event the provisions of this chapter shall control:

(1) Residence at an institution, whether public or private, where residence is merely incidental to detention or the provision of medical, religious, educational, recreational, or similar services, including but not limited to correctional facilities, licensed nursing homes, monasteries and convents, and hospitals;

(2) Occupancy under a bona fide earnest money agreement to purchase, bona fide option to purchase, or contract of sale of the dwelling unit or the property of

which it is a part, where the tenant is, or stands in the place of, the purchaser;

(3) Residence in a hotel, motel, or other transient lodging whose operation is defined in RCW 19.48.010;

(4) Rental agreements entered into pursuant to the provisions of chapter 47.12 RCW where occupancy is by an owner-condemnee and where such agreement does not violate the public policy of this state of ensuring decent, safe, and sanitary housing and is so certified by the consumer protection division of the attorney general's office;

(5) Rental agreements for the use of any single family residence which are incidental to leases or rentals entered into in connection with a lease of land to be used primarily for agricultural purposes;

(6) Rental agreements providing housing for seasonal agricultural employees while provided in conjunction with such employment;

(7) Rental agreements with the state of Washington, department of natural resources, on public lands governed by Title 79 RCW;

(8) Occupancy by an employee of a landlord whose right to occupy is conditioned upon employment in or about the premises. [1973 1st ex.s. c 207 § 4.]

59.18.050 Jurisdiction of district and superior courts. The district or superior courts of this state may exercise jurisdiction over any landlord or tenant with respect to any conduct in this state governed by this chapter or with respect to any claim arising from a transaction subject to this chapter within the respective jurisdictions of the district or superior courts as provided in Article IV, section 6 of the Constitution of the state of Washington. [1973 1st ex.s. c 207 § 5.]

59.18.060 Landlord—Duties. The landlord will at all times during the tenancy keep the premises fit for human habitation, and shall in particular:

(1) Maintain the premises to substantially comply with any applicable code, statute, ordinance, or regulation governing their maintenance or operation, which the legislative body enacting the applicable code, statute, ordinance or regulation could enforce as to the premises rented if such condition substantially endangers or impairs the health or safety of the tenant;

(2) Maintain the roofs, floors, walls, chimneys, fireplaces, foundations, and all other structural components in reasonably good repair so as to be usable and capable of resisting any and all normal forces and loads to which they may be subjected;

(3) Keep any shared or common areas reasonably clean, sanitary, and safe from defects increasing the hazards of fire or accident;

(4) Provide a reasonable program for the control of infestation by insects, rodents, and other pests at the initiation of the tenancy and, except in the case of a single family residence, control infestation during tenancy except where such infestation is caused by the tenant;

(5) Except where the condition is attributable to normal wear and tear, make repairs and arrangements necessary to put and keep the premises in as good condition

as it by law or rental agreement should have been, at the commencement of the tenancy;

(6) Provide reasonably adequate locks and furnish keys to the tenant;

(7) Maintain all electrical, plumbing, heating, and other facilities and appliances supplied by him in reasonably good working order;

(8) Maintain the dwelling unit in reasonably weather-tight condition;

(9) Except in the case of a single family residence, provide and maintain appropriate receptacles in common areas for the removal of ashes, rubbish, and garbage, incidental to the occupancy and arrange for the reasonable and regular removal of such waste;

(10) Except where the building is not equipped for the purpose, provide facilities adequate to supply heat and water and hot water as reasonably required by the tenant;

(11) Designate to the tenant the name and address of the person who is the landlord by a statement on the rental agreement or by a notice conspicuously posted on the premises. The tenant shall be notified immediately of any changes by certified mail or by an updated posting. If the person designated in this section does not reside in the state where the premises are located, there shall also be designated a person who resides in the county who is authorized to act as an agent for the purposes of service of notices and process, and if no designation is made of a person to act as agent, then the person to whom rental payments are to be made shall be considered such agent.

No duty shall devolve upon the landlord to repair a defective condition under this section, nor shall any defense or remedy be available to the tenant under this chapter, where the defective condition complained of was caused by the conduct of such tenant, his family, invitee, or other person acting under his control, or where a tenant unreasonably fails to allow the landlord access to the property for purposes of repair. When the duty imposed by subsection (1) of this section is incompatible with and greater than the duty imposed by any other provisions of this section, the landlord's duty shall be determined pursuant to subsection (1) of this section. [1973 1st ex.s. c 207 § 6.]

59.18.070 Landlord—Failure to perform duties—Notice from tenant—Contents—Time limits for landlord's remedial action. If at any time during the tenancy the landlord fails to carry out the duties required by RCW 59.18.060, the tenant may, in addition to pursuit of remedies otherwise provided him by law, deliver written notice to the person designated in subsection (11) of RCW 59.18.060, or to the person who collects the rent, which notice shall specify the premises involved, the name of the owner, if known, and the nature of the defective condition. For the purposes of this chapter, a reasonable time for the landlord to commence remedial action after receipt of such notice by the tenant shall be, except where circumstances are beyond the landlord's control;

(1) Not more than twenty-four hours, where the defective condition deprives the tenant of water or heat or is imminently hazardous to life;

(2) Not more than forty-eight hours, where the landlord fails to provide hot water or electricity;

(3) Subject to the provisions of subsections (1) and (2) of this section, not more than seven days in the case of a repair under RCW 59.18.100(3);

(4) Not more than thirty days in all other cases.

In each instance the burden shall be on the landlord to see that remedial work under this section is completed with reasonable promptness.

Where circumstances beyond the landlord's control, including the availability of financing, prevent him from complying with the time limitations set forth in this section, he shall endeavor to remedy the defective condition with all reasonable speed. [1973 1st ex.s. c 207 § 7.]

59.18.080 Payment of rent condition to exercising remedies—Exceptions. The tenant shall be current in the payment of rent including all utilities which the tenant has agreed in the rental agreement to pay before exercising any of the remedies accorded him under the provisions of this chapter: *Provided*, That this section shall not be construed as limiting the tenant's civil remedies for negligent or intentional damages: *Provided further*, That this section shall not be construed as limiting the tenant's right in an unlawful detainer proceeding to raise the defense that there is no rent due and owing. [1973 1st ex.s. c 207 § 8.]

59.18.090 Landlord's failure to remedy defective condition—Tenant's choice of actions. If, after receipt of written notice, and expiration of the applicable period of time, as provided in RCW 59.18.070, the landlord fails to remedy the defective condition within a reasonable time the tenant may:

(1) Terminate the rental agreement and quit the premises upon written notice to the landlord without further obligation under the rental agreement, in which case he shall be discharged from payment of rent for any period following the quitting date, and shall be entitled to a pro rata refund of any prepaid rent, and shall receive a full and specific statement of the basis for retaining any of the deposit together with any refund due in accordance with RCW 59.18.280;

(2) Bring an action in an appropriate court, or at arbitration if so agreed, for any remedy provided under this chapter or otherwise provided by law; or

(3) Pursue other remedies available under this chapter. [1973 1st ex.s. c 207 § 9.]

59.18.100 Landlord's failure to carry out duties—Repairs effected by tenant—Bids—Notice—Deduction of cost from rent—Limitations.

(1) If at any time during the tenancy, the landlord fails to carry out any of the duties imposed by RCW 59.18.060, and notice of the defect is given to the landlord pursuant to RCW 59.18.070, the tenant may submit to the landlord or his designated agent by certified mail or in person at least two bids to perform the repairs necessary to correct the defective condition from licensed or registered persons, or if no licensing or registration requirement applies to the type of work to be performed, from responsible persons capable of performing such

repairs. Such bids may be submitted to the landlord at the same time as notice is given pursuant to RCW 59.18.070: *Provided*, That the remedy provided in this section shall not be available for a landlord's failure to carry out the duties in subsections (6), (9), and (11) of RCW 59.18.060.

(2) If the landlord fails to commence repair of the defective condition within a reasonable time after receipt of notice from the tenant, the tenant may contract with the person submitting the lowest bid to make the repair, and upon the completion of the repair and an opportunity for inspection by the landlord or his designated agent, the tenant may deduct the cost of repair from the rent in an amount not to exceed the sum expressed in dollars representing one month's rental of the tenant's unit in any twelve-month period: *Provided*, That when the landlord must commence to remedy the defective condition within thirty days as provided in subsection (4) of RCW 59.18.070, the tenant cannot contract for repairs for at least fifteen days following receipt of said bids by the landlord: *Provided further*, That the total costs of repairs deducted in any twelve-month period under this subsection shall not exceed the sum expressed in dollars representing one month's rental of the tenant's unit.

(3) If the landlord fails to carry out the duties imposed by RCW 59.18.060 within a reasonable time, and if the cost of repair does not exceed one-half month's rent, including the cost of materials and labor, which shall be computed at the prevailing rate in the community for the performance of such work, and if repair of the condition need not by law be performed only by licensed or registered persons, the tenant may repair the defective condition in a workmanlike manner and upon completion of the repair and an opportunity for inspection, the tenant may deduct the cost of repair from the rent: *Provided*, That repairs under this subsection are limited to defects within the leased premises: *Provided further*, That the total costs of repairs deducted in any twelve-month period under this subsection shall not exceed one-half month's rent of the unit or seventy-five dollars in any twelve-month period, whichever is the lesser.

(4) The provisions of this section shall not:

(a) Create a relationship of employer and employee between landlord and tenant; or

(b) Create liability under the workmen's compensation act; or

(c) Constitute the tenant as an agent of the landlord for the purposes of RCW 60.04.010 and 60.04.040.

(5) Any repair work performed under the provisions of this section shall comply with the requirements imposed by any applicable code, statute, ordinance, or regulation. A landlord whose property is damaged because of repairs performed in a negligent manner may recover the actual damages in an action against the tenant.

(6) Nothing in this section shall prevent the tenant from agreeing with the landlord to undertake the repairs himself in return for cash payment or a reasonable reduction in rent, the agreement thereof to be agreed upon between the parties, and such agreement does not

alter the landlord's obligations under this chapter. [1973 1st ex.s. c 207 § 10.]

59.18.110 Failure of landlord to carry out duties—Determination by court or arbitrator—Judgment against landlord for diminished rental value and repair costs—Enforcement of judgment—Reduction in rent under certain conditions. (1) If a court or an arbitrator determines that:

(a) A landlord has failed to carry out a duty or duties imposed by RCW 59.18.060; and

(b) A reasonable time has passed for the landlord to remedy the defective condition following notice to the landlord in accordance with RCW 59.18.070 or such other time as may be allotted by the court or arbitrator; the court or arbitrator may determine the diminution in rental value of the premises due to the defective condition and shall render judgment against the landlord for the rent paid in excess of such diminished rental value from the time of notice of such defect to the time of decision and any costs of repair done pursuant to RCW 59.18.100 for which no deduction has been previously made. Such decisions may be enforced as other judgments at law and shall be available to the tenant as a set-off against any existing or subsequent claims of the landlord.

The court or arbitrator may also authorize the tenant to make or contract to make further corrective repairs: *Provided*, That the court specifies a time period in which the landlord may make such repairs before the tenant may commence or contract for such repairs: *Provided further*, That such repairs shall not exceed the sum expressed in dollars representing one month's rental of the tenant's unit in any one calendar year.

(2) The tenant shall not be obligated to pay rent in excess of the diminished rental value of the premises until such defect or defects are corrected by the landlord or until the court or arbitrator determines otherwise. [1973 1st ex.s. c 207 § 11.]

59.18.120 Defective condition—Unfeasible to remedy defect—Termination of tenancy. If a court or arbitrator determines a defective condition as described in RCW 59.18.060 to be so substantial that it is unfeasible for the landlord to remedy the defect within the time allotted by RCW 59.18.070, and that the tenant should not remain in the dwelling unit in its defective condition, the court or arbitrator may authorize the termination of the tenancy: *Provided*, That the court or arbitrator shall set a reasonable time for the tenant to vacate the premises. [1973 1st ex.s. c 207 § 12.]

59.18.130 Duties of tenant. Each tenant shall pay the rental amount at such times and in such amounts as provided for in the rental agreement or as otherwise provided by law and comply with all obligations imposed upon tenants by applicable provisions of all municipal, county, and state codes, statutes, ordinances, and regulations, and in addition shall:

(1) Keep that part of the premises which he occupies and uses as clean and sanitary as the conditions of the premises permit;

(2) Properly dispose from his dwelling unit all rubbish, garbage, and other organic or flammable waste, in a clean and sanitary manner at reasonable and regular intervals, and assume all costs of extermination and fumigation for infestation caused by the tenant;

(3) Properly use and operate all electrical, gas, heating, plumbing and other fixtures and appliances supplied by the landlord;

(4) Not intentionally or negligently destroy, deface, damage, impair, or remove any part of the structure or dwelling, with the appurtenances thereto, including the facilities, equipment, furniture, furnishings, and appliances, or permit any member of his family, invitee, licensee, or any person acting under his control to do so;

(5) Not permit a nuisance or common waste; and

(6) Upon termination and vacation, restore the premises to their initial condition except for reasonable wear and tear or conditions caused by failure of the landlord to comply with his obligations under this chapter: *Provided*, That the tenant shall not be charged for normal cleaning if he has paid a nonrefundable cleaning fee. [1973 1st ex.s. c 207 § 13.]

59.18.140 Reasonable obligations or restrictions—Tenant's duty to conform. The tenant shall conform to all reasonable obligations or restrictions, whether denominated by the landlord as rules, rental agreement, rent, or otherwise, concerning the use, occupation, and maintenance of his dwelling unit, appurtenances thereto, and the property of which the dwelling unit is a part if such obligations and restrictions are not in violation of any of the terms of this chapter and are not otherwise contrary to law, and if such obligations and restrictions are brought to the attention of the tenant at the time of his initial occupancy of the dwelling unit and thus become part of the rental agreement. Except for termination of tenancy, after thirty days written notice to each tenant, a new rule of tenancy may become effective upon completion of the term of the rental agreement or sooner upon mutual consent. [1973 1st ex.s. c 207 § 14.]

59.18.150 Landlord's right of entry—Purposes—Conditions. (1) The tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.

(2) The landlord may enter the dwelling unit without consent of the tenant in case of emergency or abandonment.

(3) The landlord shall not abuse the right of access or use it to harass the tenant. Except in the case of emergency or if it is impracticable to do so, the landlord shall give the tenant at least two days' notice of his intent to enter and shall enter only at reasonable times.

(4) The landlord has no other right of access except by court order, arbitrator or by consent of the tenant. [1973 1st ex.s. c 207 § 15.]

59.18.160 Landlord's remedies if tenant fails to remedy defective condition. If, after receipt of written notice, as provided in RCW 59.18.170, the tenant fails to remedy the defective condition within a reasonable time, the landlord may:

(1) Bring an action in an appropriate court, or at arbitration if so agreed for any remedy provided under this chapter or otherwise provided by law; or

(2) Pursue other remedies available under this chapter. [1973 1st ex.s. c 207 § 16.]

59.18.170 Landlord to give notice if tenant fails to carry out duties. If at any time during the tenancy the tenant fails to carry out the duties required by RCW 59.18.130 or 59.18.140, the landlord may, in addition to pursuit of remedies otherwise provided by law, give written notice to the tenant of said failure, which notice shall specify the nature of the failure. [1973 1st ex.s. c 207 § 17.]

59.18.180 Tenant's failure to comply with statutory duties—Landlord to give tenant written notice of non-compliance—Landlord's remedies. If the tenant fails to comply with any portion of RCW 59.18.130 or 59.18.140, and such noncompliance can substantially affect the health and safety of the tenant or other tenants, or substantially increase the hazards of fire or accident that can be remedied by repair, replacement of a damaged item, or cleaning, the tenant shall comply within thirty days after written notice by the landlord specifying the noncompliance, or, in the case of emergency as promptly as conditions require. If the tenant fails to remedy the noncompliance within that period the landlord may enter the dwelling unit and cause the work to be done and submit an itemized bill of the actual and reasonable cost of repair, to be payable on the next date when periodic rent is due, or on terms mutually agreed to by the landlord and tenant, or immediately if the rental agreement has terminated. Any substantial noncompliance by the tenant of RCW 59.18.130 or 59.18.140 shall constitute a ground for commencing an action in unlawful detainer in accordance with the provisions of chapter 59.12 RCW, and a landlord may commence such action at any time after written notice pursuant to such chapter. The tenant shall have a defense to an unlawful detainer action filed solely on this ground if it is determined at the hearing authorized under the provisions of chapter 59.12 RCW that the tenant is in substantial compliance with the provisions of this section, or if the tenant remedies the noncomplying condition within the thirty day period provided for above or any shorter period determined at the hearing to have been required because of an emergency: *Provided*, That if the defective condition is remedied after the commencement of an unlawful detainer action, the tenant may be liable to the landlord for statutory costs and reasonable attorney's fees. [1973 1st ex.s. c 207 § 18.]

59.18.190 Notice to tenant to remedy nonconformance. Whenever the landlord learns of a breach of RCW 59.18.130 or has accepted performance by the tenant

which is at variance with the terms of the rental agreement or rules enforceable after the commencement of the tenancy, he may immediately give notice to the tenant to remedy the nonconformance. Said notice shall expire after sixty days unless the landlord pursues any remedy under this chapter. [1973 1st ex.s. c 207 § 19.]

59.18.200 Tenancy from month to month or for rental period—Termination. When premises are rented for an indefinite time, with monthly or other periodic rent reserved, such tenancy shall be construed to be a tenancy from month to month, or from period to period on which rent is payable, and shall be terminated by written notice of twenty days or more, preceding the end of any of said months or periods, given by either party to the other. [1973 1st ex.s. c 207 § 20.]

Unlawful detainer, notice requirement: RCW 59.12.030(2).

59.18.210 Tenancies from year to year except under written contract. Tenancies from year to year are hereby abolished except when the same are created by express written contract. Leases may be in writing or print, or partly in writing and partly in print, and shall be legal and valid for any term or period not exceeding one year, without acknowledgment, witnesses or seals. [1973 1st ex.s. c 207 § 21.]

59.18.220 Termination of tenancy for a specified time. In all cases where premises are rented for a specified time, by express or implied contract, the tenancy shall be deemed terminated at the end of such specified time. [1973 1st ex.s. c 207 § 22.]

59.18.230 Waiver of chapter provisions prohibited—Provisions prohibited from rental agreement—Distress for rent abolished—Detention of personal property for rent—Remedies. (1) Any provision of a lease or other agreement, whether oral or written, whereby any section or subsection of this chapter is waived except as provided in RCW 59.18.360 and shall be deemed against public policy and shall be unenforceable. Such unenforceability shall not affect other provisions of the agreement which can be given effect without them.

(2) No rental agreement may provide that the tenant:

(a) Agrees to waive or to forego rights or remedies under this chapter; or

(b) Authorizes any person to confess judgment on a claim arising out of the rental agreement; or

(c) Agrees to pay the landlord's attorney's fees, except as authorized in this chapter; or

(d) Agrees to the exculpation or limitation of any liability of the landlord arising under law or to indemnify the landlord for that liability or the costs connected therewith; or

(e) And landlord have agreed to a particular arbitrator at the time the rental agreement is entered into.

(3) A provision prohibited by subsection (2) of this section included in a rental agreement is unenforceable. If a landlord deliberately uses a rental agreement containing provisions known by him to be prohibited, the

tenant may recover actual damages sustained by him and reasonable attorney's fees.

(4) The common law right of the landlord of distress for rent is hereby abolished for property covered by this chapter. Any provision in a rental agreement creating a lien upon the personal property of the tenant or authorizing a distress for rent is null and void and of no force and effect. Any landlord who takes or detains the personal property of a tenant without the specific consent of the tenant to such incident of taking or detention, unless the property has been abandoned as described in RCW 59.18.310, and who, after written demand by the tenant for the return of his personal property, refuses or neglects to return the same promptly shall be liable to the tenant for the value of the property retained, and the prevailing party may recover his costs of suit and a reasonable attorney's fee.

In any action, including actions pursuant to chapters 7.64 or 12.28 RCW, brought by a tenant or other person to recover possession of his personal property taken or detained by a landlord in violation of this section, the court, upon motion and after notice to the opposing parties, may waive or reduce any bond requirements where it appears to be to the satisfaction of the court that the moving party is proceeding in good faith and has, prima facie, a meritorious claim for immediate delivery or redelivery of said property. [1973 1st ex.s. c 207 § 23.]

59.18.240 Reprisals or retaliatory actions by landlord—Prohibited. So long as the tenant is in compliance with this chapter, the landlord shall not take or threaten to take reprisals or retaliatory action against the tenant because of any good faith and lawful:

(1) Complaints or reports by the tenant to a governmental authority concerning the failure of the landlord to substantially comply with any code, statute, ordinance, or regulation governing the maintenance or operation of the premises, if such condition may endanger or impair the health or safety of the tenant;

(2) Assertions or enforcement by the tenant of his rights and remedies under this chapter.

"Reprisal or retaliatory action" shall mean and include but not be limited to any of the following actions by the landlord when such actions are intended primarily to retaliate against a tenant because of the tenant's good faith and lawful act:

(1) Eviction of the tenant other than giving a notice to terminate tenancy as provided in RCW 59.18.200;

(2) Increasing the rent required of the tenant;

(3) Reduction of services to the tenant;

(4) Increasing the obligations of the tenant. [1973 1st ex.s. c 207 § 24.]

59.18.250 Reprisals or retaliatory actions by landlord—Presumptions—Rebuttal—Costs. Initiation by the landlord of any action listed in RCW 59.18.240 within ninety days after a good faith and lawful act by the tenant as enumerated in RCW 59.18.240, or within ninety days after any inspection or proceeding of a governmental agency resulting from such act, shall create a rebuttable presumption affecting the burden of proof, that the action is a reprisal or retaliatory action against

the tenant: *Provided*, That if the court finds that the tenant made a complaint or report to a governmental authority within ninety days after notice of a proposed increase in rent or other action in good faith by the landlord, there is a rebuttable presumption that the complaint or report was not made in good faith: *Provided further*, That no presumption against the landlord shall arise under this section, with respect to an increase in rent, if the landlord, in a notice to the tenant of increase in rent, specifies reasonable grounds for said increase, which grounds may include a substantial increase in market value due to remedial action under this chapter: *Provided further*, That the presumption of retaliation, with respect to an eviction, may be rebutted by evidence that it is not practical to make necessary repairs while the tenant remains in occupancy. In any action or eviction proceeding where the tenant prevails upon his claim or defense that the landlord has violated this section, the tenant shall be entitled to recover his costs of suit or arbitration, including a reasonable attorney's fee, and where the landlord prevails upon his claim he shall be entitled to recover his costs of suit or arbitration, including a reasonable attorney's fee: *Provided further*, That neither party may recover attorney's fees to the extent that their legal services are provided at no cost to them. [1973 1st ex.s. c 207 § 25.]

59.18.260 Moneys paid as deposit or security for performance by tenant—Rental agreement to specify terms and conditions for retention by landlord. If any moneys are paid to the landlord by the tenant as a deposit or as security for performance of the tenant's obligations in a lease or rental agreement, such lease or rental agreement shall include the terms and conditions under which the deposit or portion thereof may be withheld by the landlord upon termination of the lease or rental agreement. If all or part of the deposit may be withheld to indemnify the landlord for damages to the premises for which the tenant is responsible, or if all or part thereof may be retained by the landlord as a nonreturnable cleaning fee, the rental agreement shall so specify. No such deposit shall be withheld on account of normal wear and tear resulting from ordinary use of the premises. [1973 1st ex.s. c 207 § 26.]

59.18.270 Moneys paid as deposit or security for performance by tenant—Deposit by landlord in trust account—Receipt—Claims. All moneys paid to the landlord by the tenant as a deposit as security for performance of the tenant's obligations in a lease or rental agreement shall promptly be deposited by the landlord in a trust account, maintained by the landlord for the purpose of holding such security deposits for tenants of the landlord, in a bank, savings and loan association, mutual savings bank, or licensed escrow agent located in Washington. Unless otherwise agreed in writing, the landlord shall be entitled to receipt of interest paid on such trust account deposits. The landlord shall provide the tenant with a written receipt for the deposit and shall provide written notice of the name and address and location of the depository and any subsequent change thereof. If during a tenancy the status of landlord is

transferred to another, any sums in the deposit trust account affected by such transfer shall simultaneously be transferred to an equivalent trust account of the successor landlord, and the successor landlord shall promptly notify the tenant of the transfer and of the name, address and location of the new depository. The tenant's claim to any moneys paid under this section shall be prior to that of any creditor of the landlord, including a trustee in bankruptcy or receiver, even if such moneys are commingled. [1975 1st ex.s. c 233 § 1; 1973 1st ex.s. c 207 § 27.]

59.18.280 Moneys paid as deposit or security for performance by tenant—Statement and notice of basis for retention—Costs. Within fourteen days after the termination of the rental agreement and vacation of the premises the landlord shall give a full and specific statement of the basis for retaining any of the deposit together with the payment of any refund due the tenant under the terms and conditions of the rental agreement. No portion of any deposit shall be withheld on account of wear resulting from ordinary use of the premises.

The notice shall be delivered to the tenant personally or by mail to his last known address. If the landlord fails to give such statement together with any refund due the tenant within the time limits specified above he shall be liable to the tenant for the amount of refund due. In any action brought by the tenant to recover the deposit, the prevailing party shall additionally be entitled to the cost of suit or arbitration including a reasonable attorney's fee.

Nothing in this chapter shall preclude the landlord from proceeding against, and the landlord shall have the right to proceed against a tenant to recover sums exceeding the amount of the tenant's damage or security deposit for damage to the property for which the tenant is responsible together with reasonable attorney's fees. [1973 1st ex.s. c 207 § 28.]

59.18.290 Removal or exclusion of tenant from premises—Holding over or excluding landlord from premises after termination date. (1) It shall be unlawful for the landlord to remove or exclude from the premises the tenant thereof except under a court order so authorizing. Any tenant so removed or excluded in violation of this section may recover possession of the property or terminate the rental agreement and, in either case, may recover the actual damages sustained. The prevailing party may recover the costs of suit or arbitration and reasonable attorney's fees.

(2) It shall be unlawful for the tenant to hold over in the premises or exclude the landlord therefrom after the termination of the rental agreement except under a valid court order so authorizing. Any landlord so deprived of possession of premises in violation of this section may recover possession of the property and damages sustained by him, and the prevailing party may recover his costs of suit or arbitration and reasonable attorney's fees. [1973 1st ex.s. c 207 § 29.]

59.18.300 Termination of tenant's utility services—Tenant causing loss of landlord provided utility

services. It shall be unlawful for a landlord to intentionally cause termination of any of his tenant's utility services, including water, heat, electricity, or gas, except for an interruption of utility services for a reasonable time in order to make necessary repairs. Any landlord who violates this section may be liable to such tenant for his actual damages sustained by him, and up to one hundred dollars for each day or part thereof the tenant is thereby deprived of any utility service, and the prevailing party may recover his costs of suit or arbitration and a reasonable attorney's fee. It shall be unlawful for a tenant to intentionally cause the loss of utility services provided by the landlord, including water, heat, electricity or gas, excepting as resulting from the normal occupancy of the premises. [1973 1st ex.s. c 207 § 30.]

59.18.310 Default in rent—Abandonment—Liability of tenant—Landlord's remedies. If the tenant defaults in the payment of rent and reasonably indicates by words or actions his intention not to resume tenancy, he shall be liable for the following for such abandonment: *Provided*, That upon learning of such abandonment of the premises the landlord shall make a reasonable effort to mitigate the damages resulting from such abandonment:

(1) When the tenancy is month-to-month, the tenant shall be liable for the rent for the thirty days following either the date the landlord learns of the abandonment, or the date the next regular rental payment would have become due, whichever first occurs.

(2) When the tenancy is for a term greater than month-to-month, the tenant shall be liable for the lesser of the following:

(a) The entire rent due for the remainder of the term; or

(b) All rent accrued during the period reasonably necessary to rerent the premises at a fair rental, plus the difference between such fair rental and the rent agreed to in the prior agreement, plus actual costs incurred by the landlord in rerenting the premises together with statutory court costs and reasonable attorney's fees.

In the event of such abandonment of tenancy and an accompanying default in the payment of rent by the tenant, the landlord may immediately enter and take possession of any property of the tenant found on the premises and may store the same in a secure place. A notice containing the name and address of landlord and the place where the property is stored must be mailed promptly by the landlord to the last known address of the tenant. After sixty days from the date of default in rent, and after prior notice of such sale is mailed to the last known address of the tenant, the landlord may sell such property and may apply any income derived therefrom against moneys due the landlord, including drayage and storage. Any excess income derived from the sale of such property shall be held by the landlord for the benefit of the tenant for a period of one year from the date of sale, and if no claim is made or action commenced by the tenant for the recovery thereof prior to the expiration of that period of time, the balance shall be the property of the landlord. [1973 1st ex.s. c 207 § 31.]

59.18.320 Arbitration—Authorized—Exceptions—Notice—Procedure. (1) The landlord and tenant may agree, in writing, except as provided in RCW 59.18.230(2)(e), to submit to arbitration, in conformity with the provisions of this section, any controversy arising under the provisions of this chapter, except the following:

(a) Controversies regarding the existence of defects covered in subsections (1) and (2) of RCW 59.18.070: *Provided*, That this exception shall apply only before the implementation of any remedy by the tenant;

(b) Any situation where court action has been started by either landlord or tenant to enforce rights under this chapter; when the court action substantially affects the controversy, including but not limited to:

(i) Court action pursuant to subsections (2) and (3) of RCW 59.18.090 and subsections (1) and (2) of RCW 59.18.160; and

(ii) Any unlawful detainer action filed by the landlord pursuant to chapter 59.12 RCW.

(2) The party initiating arbitration under subsection (1) of this section shall give reasonable notice to the other party or parties.

(3) Except as otherwise provided in this section, the arbitration process shall be administered by any arbitrator agreed upon by the parties at the time the dispute arises: *Provided*, That the procedures shall comply with the requirements of chapter 7.04 RCW (relating to arbitration) and of this chapter. [1973 1st ex.s. c 207 § 32.]

59.18.330 Arbitration—Application—Hearings—Decisions. (1) Unless otherwise mutually agreed to, in the event a controversy arises under RCW 59.18.320 the landlord or tenant, or both, shall complete an application for arbitration and deliver it to the selected arbitrator.

(2) The arbitrator so designated shall schedule a hearing to be held no later than ten days following receipt of notice of the controversy, except as provided in RCW 59.18.350.

(3) The arbitrator shall conduct public or private hearings. Reasonable notice of such hearings shall be given to the parties, who shall appear and be heard either in person or by counsel or other representative. Hearings shall be informal and the rules of evidence prevailing in judicial proceedings shall not be binding. A recording of the proceedings may be taken. Any oral or documentary evidence and other data deemed relevant by the arbitrator may be received in evidence. The arbitrator shall have the power to administer oaths, to issue subpoenas, to require the attendance of witnesses and the production of such books, papers, contracts, agreements, and documents as may be deemed by the arbitrator material to a just determination of the issues in dispute. If any person refuses to obey such subpoena or refuses to be sworn to testify, or any witness, party, or attorney is guilty of any contempt while in attendance at any hearing held hereunder, the arbitrator may invoke the jurisdiction of any superior court, and such court shall have jurisdiction to issue an appropriate order. A

failure to obey such order may be punished by the court as a contempt thereof.

(4) Within five days after conclusion of the hearing, the arbitrator shall make a written decision upon the issues presented, a copy of which shall be mailed by certified mail or otherwise delivered to the parties or their designated representatives. The determination of the dispute made by the arbitrator shall be final and binding upon both parties.

(5) If a defective condition exists which affects more than one dwelling unit in a similar manner, the arbitrator may consolidate the issues of fact common to those dwelling units in a single proceeding.

(6) Decisions of the arbitrator shall be enforced or appealed according to the provisions of chapter 7.04 RCW. [1973 1st ex.s. c 207 § 33.]

59.18.340 Arbitration—Fee. The administrative fee for this arbitration procedure shall be seventy dollars, and, unless otherwise allocated by the arbitrator, shall be shared equally by the parties: *Provided*, That upon either party signing an affidavit to the effect that he is unable to pay his share of the fee, that portion of the fee may be waived or deferred. [1973 1st ex.s. c 207 § 34.]

59.18.350 Arbitration—Completion of arbitration after giving notice. When a party gives notice pursuant to subsection (2) of RCW 59.18.320, he must, at the same time, arrange for arbitration of the grievance in the manner provided for in this chapter. The arbitration shall be completed before the rental due date next occurring after the giving of notice pursuant to RCW 59.18.320: *Provided*, That in no event shall the arbitrator have less than ten days to complete the arbitration process. [1973 1st ex.s. c 207 § 35.]

59.18.360 Exemptions. A landlord and tenant may agree, in writing, to exempt themselves from the provisions of RCW 59.18.060, 59.18.100, 59.18.110, 59.18.120, 59.18.130, and 59.18.190 if the following conditions have been met:

(1) The agreement may not appear in a standard form lease or rental agreement;

(2) There is no substantial inequality in the bargaining position of the two parties;

(3) The exemption does not violate the public policy of this state in favor of the ensuring safe, and sanitary housing; and

(4) Either the local county prosecutor's office or the consumer protection division of the attorney general's office or the attorney for the tenant has approved in writing the application for exemption as complying with subsections (1) through (3) of this section. [1973 1st ex.s. c 207 § 36.]

59.18.370 Forcible entry or detainer or unlawful detainer actions—Writ of restitution—Application—Order—Hearing. The plaintiff, at the time of commencing an action of forcible entry or detainer or unlawful detainer, or at any time afterwards, upon filing the complaint, may apply to the superior court in which

the action is pending for an order directing the defendant to appear and show cause, if any he has, why a writ of restitution should not issue restoring to the plaintiff possession of the property in the complaint described, and the judge shall by order fix a time and place for a hearing of said motion, which shall not be less than six nor more than twelve days from the date of service of said order upon defendant. A copy of said order, together with a copy of the summons and complaint if not previously served upon the defendant, shall be served upon the defendant. Said order shall notify the defendant that if he fails to appear and show cause at the time and place specified by the order the court may order the sheriff to restore possession of the property to the plaintiff and may grant such other relief as may be prayed for in the complaint and provided by this chapter. [1973 1st ex.s. c 207 § 38.]

59.18.380 Forcible entry or detainer or unlawful detainer actions—Writ of restitution—Answer—Order—Stay—Bond. At the time and place fixed for the hearing of plaintiff's motion for a writ of restitution, the defendant, or any person in possession or claiming possession of the property, may answer, orally or in writing, and assert any legal or equitable defense or set-off arising out of the tenancy. If the answer is oral the substance thereof shall be endorsed on the complaint by the court. The court shall examine the parties and witnesses orally to ascertain the merits of the complaint and answer, and if it shall appear that the plaintiff has the right to be restored to possession of the property, the court shall enter an order directing the issuance of a writ of restitution, returnable ten days after its date, restoring to the plaintiff possession of the property and if it shall appear to the court that there is no substantial issue of material fact of the right of the plaintiff to be granted other relief as prayed for in the complaint and provided for in this chapter, the court may enter an order and judgment granting so much of such relief as may be sustained by the proof, and the court may grant such other relief as may be prayed for in the plaintiff's complaint and provided for in this chapter, then the court shall enter an order denying any relief sought by the plaintiff for which the court has determined that the plaintiff has no right as a matter of law: *Provided*, That within three days after the service of the writ of restitution the defendant, or person in possession of the property, may, in any action for the recovery of possession of the property for failure to pay rent, stay the execution of the writ pending final judgment by paying into court or to the plaintiff, as the court directs, all rent found to be due and all the costs of the action, and in addition by paying, on a monthly basis pending final judgment, an amount equal to the monthly rent called for by the lease or rental agreement at the time the complaint was filed: *Provided further*, That before any writ shall issue prior to final judgment the plaintiff shall execute to the defendant and file in the court a bond in such sum as the court may order, with sufficient surety to be approved by the clerk, conditioned that the plaintiff will prosecute his action without delay, and will pay all costs that may

be adjudged to the defendant, and all damages which he may sustain by reason of the writ of restitution having been issued, should the same be wrongfully sued out. The court shall also enter an order directing the parties to proceed to trial on the complaint and answer in the usual manner.

If it appears to the court that the plaintiff should not be restored to possession of the property, the court shall deny plaintiff's motion for a writ of restitution and enter an order directing the parties to proceed to trial within thirty days on the complaint and answer. If it appears to the court that there is a substantial issue of material fact as to whether or not the plaintiff is entitled to other relief as is prayed for in plaintiff's complaint and provided for in this chapter, or that there is a genuine issue of a material fact pertaining to a legal or equitable defense or set-off raised in the defendant's answer, the court shall grant or deny so much of plaintiff's other relief sought and so much of defendant's defenses or set-off claimed, as may be proper. [1973 1st ex.s. c 207 § 39.]

59.18.390 Forcible entry or detainer or unlawful detainer actions—Writ of restitution—Service—Defendant's bond. The sheriff shall, upon receiving the writ of restitution, forthwith serve a copy thereof upon the defendant, his agent, or attorney, or a person in possession of the premises, and shall not execute the same for three days thereafter, and the defendant, or person in possession of the premises within three days after the service of the writ of restitution may execute to the plaintiff a bond to be filed with and approved by the clerk of the court in such sum as may be fixed by the judge, with sufficient surety to be approved by the clerk of said court, conditioned that they will pay to the plaintiff such sum as the plaintiff may recover for the use and occupation of the said premises, or any rent found due, together with all damages the plaintiff may sustain by reason of the defendant occupying or keeping possession of said premises, together with all damages which the court theretofore has awarded to the plaintiff as provided in this chapter, and also all the costs of the action. The plaintiff, his agent or attorneys, shall have notice of the time and place where the court or judge thereof shall fix the amount of the defendant's bond, and shall have notice and a reasonable opportunity to examine into the qualification and sufficiency of the sureties upon said bond before said bond shall be approved by the clerk. The writ may be served by the sheriff, in the event he shall be unable to find the defendant, an agent or attorney, or a person in possession of the premises, by affixing a copy of said writ in a conspicuous place upon the premises. [1973 1st ex.s. c 207 § 40.]

59.18.400 Forcible entry or detainer or unlawful detainer actions—Writ of restitution—Answer of defendant. On or before the day fixed for his appearance the defendant may appear and answer. The defendant in his answer may assert any legal or equitable defense or set-off arising out of the tenancy. [1973 1st ex.s. c 207 § 41.]

59.18.410 Forcible entry or detainer or unlawful detainer actions—Writ of restitution—Judgment—Execution. If upon the trial the verdict of the jury or, if the case be tried without a jury, the finding of the court be in favor of the plaintiff and against the defendant, judgment shall be entered for the restitution of the premises; and if the proceeding be for unlawful detainer after neglect or failure to perform any condition or covenant of a lease or agreement under which the property is held, or after default in the payment of rent, the judgment shall also declare the forfeiture of the lease, agreement or tenancy. The jury, or the court, if the proceedings be tried without a jury, shall also assess the damages arising out of the tenancy occasioned to the plaintiff by any forcible entry, or by any forcible or unlawful detainer, alleged in the complaint and proved on the trial, and, if the alleged unlawful detainer be after default in the payment of rent, find the amount of any rent due, and the judgment shall be rendered against the defendant guilty of the forcible entry, forcible detainer or unlawful detainer for the amount of damages thus assessed and for the rent, if any, found due, and the court may award statutory costs and reasonable attorney's fees. When the proceeding is for an unlawful detainer after default in the payment of rent, and the lease or agreement under which the rent is payable has not by its terms expired, execution upon the judgment shall not be issued until the expiration of five days after the entry of the judgment, within which time the tenant or any subtenant, or any mortgagee of the term, or other party interested in the continuance of the tenancy, may pay into court for the landlord the amount of the judgment and costs, and thereupon the judgment shall be satisfied and the tenant restored to his tenancy; but if payment, as herein provided, be not made within five days the judgment may be enforced for its full amount and for the possession of the premises. In all other cases the judgment may be enforced immediately. If writ of restitution shall have been executed prior to judgment no further writ or execution for the premises shall be required. [1973 1st ex.s. c 207 § 42.]

59.18.415 Applicability to certain single family dwelling leases. The provisions of this chapter shall not apply to any lease of a single family dwelling for a period of a year or more or to any lease of a single family dwelling containing a bona fide purchase by the tenant: *Provided*, That an attorney for the tenant must approve on the face of the agreement any lease exempted from the provisions of this chapter as provided for in this section. [1973 1st ex.s. c 207 § 43.]

59.18.420 RCW 59.12.090, 59.12.100, 59.12.121 and 59.12.170 inapplicable. The provisions of RCW 59.12.090, 59.12.100, 59.12.121, and 59.12.170 shall not apply to any rental agreement included under the provisions of chapter 59.18 RCW. [1973 1st ex.s. c 207 § 44.]

59.18.430 Applicability to prior, existing or future leases. RCW 59.18.010 through 59.18.360 and 59.18.900 shall not apply to any lease entered into prior to July 16, 1973. All provisions of this chapter shall apply

to any lease or periodic tenancy entered into on or subsequent to July 16, 1973. [1973 1st ex.s. c 207 § 47.]

59.18.900 Severability—1973 1st ex.s. c 207. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the act, or its application to other persons or circumstances, is not affected. [1973 1st ex.s. c 207 § 37.]

Chapter 59.20

MOBILE HOME LANDLORD-TENANT ACT

Sections	
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59.20.900	Severability—1977 1st ex.s. c 279.

59.20.010 Short title. This chapter shall be known and may be cited as the "Mobile Home Landlord-Tenant Act". [1977 1st ex.s. c 279 § 1.]

59.20.020 Rights and remedies—Obligation of good faith required. Every duty under this chapter and every act which must be performed as a condition precedent to the exercise of a right or remedy under this chapter imposes an obligation of good faith in its performance or enforcement. [1977 1st ex.s. c 279 § 2.]

- 59.20.030 Definitions.** For purposes of this chapter:
- (1) "Landlord" means the owner of a mobile home park and includes the agents of a landlord;
 - (2) "Mobile home lot" means a portion of a mobile home park designated as the location of one mobile home and its accessory buildings, and intended for the exclusive use of the occupants of that mobile home;
 - (3) "Mobile home park" means any real property which is rented or held out for rent to others for the placement of two or more mobile homes for the primary purpose of production of income;
 - (4) "Tenant" means any person, except a transient, who rents a mobile home lot;
 - (5) "Transient" means a person who rents a mobile home lot for a period of less than one month. [1977 1st ex.s. c 279 § 3.]

59.20.040 Chapter applies to rental agreements regarding mobile home lots—Applicability of and construction with provisions of chapter 59.12 RCW and

chapter 59.18 RCW. This chapter shall regulate and determine legal rights, remedies, and obligations arising from any rental agreement between a landlord and a tenant regarding a mobile home lot. All such rental agreements shall be unenforceable to the extent of any conflict with any provision of this chapter. Chapter 59.12 RCW shall be applicable only in implementation of the provisions of this chapter and not as an alternative remedy to this chapter which shall be exclusive where applicable: *Provided*, That the provision of RCW 59.12-.090, 59.12.100, and 59.12.170 shall not apply to any rental agreement included under the provisions of this chapter. RCW 59.18.370 through 59.18.410 shall be applicable to any action of forcible entry or detainer or unlawful detainer arising from a tenancy under the provisions of this chapter. Rentals of mobile homes themselves are governed by the Residential Landlord-Tenant Act, chapter 59.18 RCW. [1977 1st ex.s. c 279 § 4.]

59.20.050 Written rental agreement for term of one year or more required—Waiver—Exceptions—Preexisting tenancies. (1) On and after September 21, 1977, no landlord may offer a mobile home lot for rent without offering to a prospective tenant a written rental agreement for a term of one year or more. A prospective tenant who desires to occupy a mobile home lot for other than a term of one year or more may have the option to be on a month to month basis but must waive, in writing, the right to such one year or more term. Except pursuant to such waiver, no landlord shall allow a mobile home to be moved into a mobile home park in this state until a written rental agreement has been signed by the landlord and the tenant and a copy provided for the tenant;

(2) The requirements of subsection (1) of this section shall not apply if:

(a) The mobile home park or part thereof has been acquired or is under imminent threat of condemnation for a public works project, or

(b) An employer-employee relationship exists between a landlord and tenant;

(3) The provisions of this section shall apply to any tenancy in existence prior to September 21, 1977, upon expiration of the term of any oral or written rental agreement governing such tenancy. [1977 1st ex.s. c 279 § 5.]

59.20.060 Rental agreements—Required contents—Exclusions. (1) Any rental agreement executed between the landlord and tenant shall contain:

(a) The terms for the payment of rent, including time and place, and any additional charges to be paid by the tenant. Additional charges that occur less frequently than monthly shall be itemized in a billing to the tenant;

(b) Reasonable rules for guest parking which shall be clearly stated;

(c) The rules and regulations of the park;

(d) The name and address of the person who is the landlord, and if such person does not reside in the state where the mobile home park is located there shall also be designated by name and address a person who resides in the county where the mobile home park is located

who is authorized to act as agent for the purposes of service of notices and process. If no designation is made of a person to act as agent, then the person to whom rental payments are to be made shall be considered the agent; and

(e) The terms and conditions under which any deposit or portion thereof may be withheld by the landlord upon termination of the rental agreement if any moneys are paid to the landlord by the tenant as a deposit or as security for performance of the tenant's obligations in a rental agreement.

(2) Any rental agreement executed between the landlord and tenant shall not contain:

(a) Any provision which allows the landlord to charge a fee for guest parking unless a violation of the rules for guest parking occurs: *Provided*, That a fee may be charged for guest parking which covers an extended period of time as defined in the rental agreement;

(b) Any provision which authorizes the towing or impounding of a vehicle except upon notice to the owner thereof or the tenant whose guest is the owner of said vehicle;

(c) Any provision which allows the landlord to increase the rent or alter the due date for rent payment during the term of the rental agreement: *Provided*, That a rental agreement may include an escalation clause for a pro rata share of any increase in the mobile home park's real property taxes or utility assessments or charges, over the base taxes or utility assessments or charges of the year in which the rental agreement took effect, if the clause also provides for a pro rata reduction in rent or other charges in the event of a reduction in real property taxes or utility assessments or charges, below the base year;

(d) Any provision by which the tenant agrees to waive or forego rights or remedies under this chapter; or

(e) Any provision allowing the landlord to charge an "entrance fee" or an "exit fee". [1977 1st ex.s. c 279 § 6.]

59.20.070 Prohibited acts by landlord. A landlord shall not:

(1) Deny any tenant the right to sell such tenant's mobile home within a park or require the removal of the mobile home from the park solely because of the sale thereof: *Provided*, That:

(a) A rental agreement for a fixed term shall be assignable by the tenant to any person to whom he sells or transfers title to the mobile home, subject to the approval of the landlord after fifteen days' written notice of such intended assignment;

(b) The assignee of the rental agreement shall assume all the duties and obligations of his assignor for the remainder of the term of the rental agreement unless, by mutual agreement, a new rental agreement is entered into with the landlord; and

(c) The landlord shall approve or disapprove of the assignment of a rental agreement on the same basis that the landlord approves or disapproves of any new tenant; or

(2) Restrict the tenant's freedom of choice in purchasing goods or services but may reserve the right to

approve or disapprove any exterior structural improvements on a mobile home lot: *Provided*, That door-to-door solicitation in the mobile home park may be restricted in the rental agreement. [1977 1st ex.s. c 279 § 7.]

59.20.080 Grounds for termination of tenancy—

Notice. Tenancy during the term of a rental agreement may be terminated by the landlord only for one or more of the following reasons:

(1) Substantial or repeated violation of the rules of the mobile home park as established by the landlord at the inception of the tenancy or as assumed subsequently with the consent of the tenant. The tenant shall be given written notice of a fifteen day period in which to comply or vacate. In the case of periodic rather than continuous violation, said notice shall specify that the same violation repeated shall result in termination;

(2) Nonpayment of rent or other charges specified in the rental agreement, upon five days written notice to pay rent and/or other charges or to vacate;

(3) Conviction of the tenant of a crime, commission of which threatens the health, safety, or welfare of the other mobile home park tenants. The tenant shall be given written notice of a fifteen day period in which to vacate. [1977 1st ex.s. c 279 § 8.]

59.20.090 Term of rental agreements—

Renewal—Nonrenewal—Termination—Notices.

(1) Unless otherwise agreed rental agreements shall be for a term of one year. Any rental agreement for a term of one year and any rental agreement renewed for a six-month term shall be automatically renewed for an additional six-month term unless:

(a) Otherwise specified in the original written rental agreement; or

(b) The landlord notifies the tenant in writing three months prior to the expiration of the rental agreement that it will not be renewed or will be renewed only with the changes contained in such notice.

A tenant shall notify the landlord in writing one month prior to the expiration of a rental agreement of an intention not to renew.

(2) The tenant may terminate the rental agreement upon thirty days written notice whenever a change in the location of the tenant's employment requires a change in his residence, and shall not be liable for rental following such termination unless after due diligence and reasonable effort the landlord is not able to rent the mobile home lot at a fair rental. If the landlord is not able to rent the lot, the tenant shall remain liable for the rental specified in the rental agreement until the lot is rented or the original term ends;

(3) Any tenant who is a member of the armed forces may terminate a rental agreement with less than thirty days notice if he receives reassignment orders which do not allow greater notice. [1977 1st ex.s. c 279 § 9.]

59.20.100 Improvements. Improvements, except a natural lawn, purchased and installed by a tenant on a mobile home lot shall remain the property of the tenant even though affixed to or in the ground and may be

removed or disposed of by the tenant prior to the termination of the tenancy: *Provided*, That a tenant shall leave the mobile home lot in substantially the same or better condition than upon taking possession. [1977 1st ex.s. c 279 § 10.]

59.20.110 Attorney's fees and costs. In any action arising out of this chapter, the prevailing party shall be entitled to reasonable attorney's fees and costs. [1977 1st ex.s. c 279 § 11.]

59.20.120 Venue. Venue for any action arising under this chapter shall be in the district or superior court of the county in which the mobile home lot is located. [1977 1st ex.s. c 279 § 12.]

59.20.900 Severability—1977 1st ex.s. c 279. 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. [1977 1st ex.s. c 279 § 13.]

Title 60 LIENS

Chapters

60.04	Mechanics' and materialmen's liens.
60.22	Lien for furnishing fertilizers, pesticides, weed killers.
60.28	Lien for labor, materials, taxes on public works.
60.32	Labor liens on franchises, earnings, and property of certain companies.
60.68	Lien for internal revenue taxes.

Chapter 60.04

MECHANICS' AND MATERIALMEN'S LIENS

Sections

60.04.020	Notice that materialmen's lien may be claimed.
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60.04.020 Notice that materialmen's lien may be claimed. Every person, firm or corporation furnishing materials or supplies or renting, leasing or otherwise supplying equipment, to be used in the construction, alteration or repair of any mining claim, building, wharf, bridge, ditch, dyke, flume, tunnel, well, fence, machinery, railroad, street railway, wagon road, aqueduct to create hydraulic power, or any other building, or any other structure, or mining claim or stone quarry, shall give to the owner or reputed owner of the property on, upon or about which such materials or supplies or equipment is and/or were used, a notice in writing, which notice shall cover the material, supplies or equipment furnished or leased during the sixty days preceding the giving of such notice as well as all subsequent materials, supplies or equipment furnished or leased, stating

in substance and effect that such person, firm or corporation is and/or has furnished materials and supplies, or equipment for use thereon, with the name of the contractor or agent ordering the same, and that a lien may be claimed for all materials and supplies, or equipment furnished by such person, firm or corporation for use thereon, which notice shall be given by (1) mailing the same by registered or certified mail in an envelope addressed to the owner or reputed owner at his place of residence or reputed residence, or (2) by serving the same personally upon the owner or reputed owner and obtaining evidence of such service in the form of a receipt or other acknowledgment signed by such owner or reputed owner: *Provided, however,* That with respect to materials or supplies or equipment used in construction, alteration or repair of any single family residence or garage such notice must be given not later than ten days after the date of the first delivery of such materials or supplies or equipment. No materialmen's lien shall be enforced unless the provisions of this section have been complied with: *Provided,* That in the event the notice required by this section is not given within the time specified by this section, any lien or claim of lien shall be enforceable only for materials and supplies or equipment delivered subsequent to such notice being given to the owner or reputed owner, and such lien or claim of lien shall be secondary to any lien or claim of lien established where such notice was given within the time limits prescribed by this section. [1977 1st ex.s. c 57 § 1; 1969 ex.s. c 84 § 1; 1965 c 98 § 1; 1959 c 279 § 2; 1959 c 278 § 1; 1957 c 214 § 1; 1911 c 77 § 1; 1909 c 45 § 1; RRS § 1133.]

Effective date—1977 1st ex.s. c 57: "This 1977 amendatory act shall take effect January 1, 1978." [1977 1st ex.s. c 57 § 2.]

Chapter 60.22

LIEN FOR FURNISHING FERTILIZERS, PESTICIDES, WEED KILLERS

Sections

60.22.020 Claim of lien—Filing—Procedure to foreclose—Time of attachment.

60.22.020 Claim of lien—Filing—Procedure to foreclose—Time of attachment. Such lien claimant must, after the commencement of delivery of such materials and products but before commencement of the harvest of the crops, file for recording with the auditor of the county in which the crops or part thereof are raised, a claim of lien which shall be in substance in accordance with the provisions governing mechanics' liens in chapter 60.04 RCW, and foreclosed in the same manner as such liens, and such lien shall attach as of the date of such filing. [1977 c 21 § 1; 1961 c 264 § 2.]

Chapter 60.28

LIEN FOR LABOR, MATERIALS, TAXES ON PUBLIC WORKS

Sections

60.28.010 Retained percentage—Labor and material lien created—Termination before completion—Chapter deemed exclusive—Release of ferry contract payments (as amended by 1977 1st ex.s. c 166).

60.28.010 Retained percentage—Labor and material lien created—Termination before completion—Chapter deemed exclusive (as amended by 1977 1st ex.s. c 205).

60.28.010 Retained percentage—Labor and material lien created—Termination before completion—Chapter deemed exclusive—Release of ferry contract payments (as amended by 1977 1st ex.s. c 166). (1) Contracts for public improvements or work, other than for professional services, by the state, or any county, city, town, district, board, or other public body, herein referred to as "public body", shall provide, and there shall be reserved by the public body from the moneys earned by the contractor on estimates during the progress of the improvement or work, a sum equal to ten percent of the first one hundred thousand dollars and five percent for all amounts over one hundred thousand dollars of such estimates, said sum to be retained by the state, county, city, town, district, board, or other public body, as a trust fund for the protection and payment of any person or persons, mechanic, subcontractor or materialman who shall perform any labor upon such contract or the doing of said work, and all persons who shall supply such person or persons or subcontractors with provisions and supplies for the carrying on of such work, and the state with respect to taxes imposed pursuant to Title 82 RCW which may be due from such contractor. Every person performing labor or furnishing supplies toward the completion of said improvement or work shall have a lien upon said moneys so reserved: *Provided,* That such notice of the lien of such claimant shall be given in the manner and within the time provided in *RCW 39.08.030 through 39.08.060 as now existing and in accordance with any amendments that may hereafter be made thereto: *Provided further,* That the board, council, commission, trustees, officer or body acting for the state, county or municipality or other public body, at any time after fifty percent of the original contract work has been completed, if it finds that satisfactory progress is being made, may make any of the partial payments subsequently made in full; but in no event shall the amount to be retained be reduced to less than five percent of the amount of the moneys earned by the contractor.

(2) The moneys reserved under the provisions of subsection (1) of this section, at the option of the contractor, shall be:

(a) Retained in a fund by the public body until thirty days following the final acceptance of said improvement or work as completed; or

(b) Deposited by the public body in an interest bearing account in a bank, mutual savings bank, or savings and loan association, not subject to withdrawal until after the final acceptance of said improvement or work as completed, or until agreed to by both parties: *Provided,* That interest on such account shall be paid to the contractor;

(c) Placed in escrow with a bank or trust company by the public body until thirty days following the final acceptance of said improvement or work as completed.

When the moneys reserved are to be placed in escrow, the public body shall issue a check representing the sum of the moneys reserved payable to the bank or trust company and the contractor jointly. Such check shall be converted into bonds and securities chosen by the contractor and approved by the public body and such bonds and securities shall be held in escrow. Interest on such bonds and securities shall be paid to the contractor as the said interest accrues.

(3) If the public body administering a contract, other than a contract governed by the provisions of RCW 60.28.070, as amended, after a substantial portion of the work has been completed, finds that an unreasonable delay will occur in the completion of the remaining portion of the contract for any reason not the result of a breach thereof, it may, if the contractor agrees, delete from the contract the remaining work and accept as final the improvement at the stage of completion then attained and make payment in proportion to the amount of the work accomplished and in such case any amounts retained and accumulated under this section shall be held for a period of thirty days following such acceptance. In the event that the work shall have been terminated before final completion as provided in this section, the

public body may thereafter enter into a new contract with the same contractor to perform the remaining work or improvement for an amount equal to or less than the cost of the remaining work as was provided for in the original contract without advertisement or bid. The provisions of this chapter 60.28 RCW shall be deemed exclusive and shall supersede all provisions and regulations in conflict herewith.

(4) Whenever the toll bridge authority or the department of highways has contracted for the construction of two or more ferry vessels, thirty days after completion and final acceptance of each ferry vessel, the authority or the department may release and pay in full the amounts retained in connection with the construction of such vessel subject to the provisions of RCW 60.28.020: *Provided*, That the toll bridge authority or the department of highways may at its discretion condition the release of funds retained in connection with the completed ferry upon the contractor delivering a good and sufficient bond with two or more sureties, or with a surety company, in the amount of the retained funds to be released to the contractor, conditioned that no taxes shall be certified or claims filed for work on such ferry after a period of thirty days following final acceptance of such ferry; and if such taxes are certified or claims filed, recovery may be had on such bond by the department of revenue and the materialmen and laborers filing claims. [1977 1st ex.s. c 166 § 5; 1975 1st ex.s. c 104 § 1; 1970 ex.s. c 38 § 1; 1969 ex.s. c 151 § 1; 1963 c 238 § 1; 1955 c 236 § 1; 1921 c 166 § 1; RRS § 10320.]

Reviser's note: Powers, duties, and functions of toll bridge authority and highway department transferred to department of transportation; see RCW 47.01.031. Terms "toll bridge authority" and "department of highways" mean department of transportation; see RCW 47.04.015.

60.28.010 Retained percentage—Labor and material lien created—Termination before completion—Chapter deemed exclusive (as amended by 1977 1st ex.s. c 205). (1) Contracts for public improvements or work, other than for professional services, by the state, or any county, city, town, district, board, or other public body, herein referred to as "public body", shall provide, and there shall be reserved by the public body from the moneys earned by the contractor on estimates during the progress of the improvement or work, a sum equal to ten percent of the first one hundred thousand dollars and five percent for all amounts over one hundred thousand dollars of such estimates, said sum to be retained by the state, county, city, town, district, board, or other public body, as a trust fund for the protection and payment of any person or persons, mechanic, subcontractor or materialman who shall perform any labor upon such contract or the doing of said work, and all persons who shall supply such person or persons or subcontractors with provisions and supplies for the carrying on of such work, and the state with respect to taxes imposed pursuant to Title 82 RCW which may be due from such contractor. Every person performing labor or furnishing supplies toward the completion of said improvement or work shall have a lien upon said moneys so reserved: *Provided*, That such notice of the lien of such claimant shall be given in the manner and within the time provided in *RCW 39.08.030 through 39.08.060 as now existing and in accordance with any amendments that may hereafter be made thereto: *Provided further*, That the board, council, commission, trustees, officer or body acting for the state, county or municipality or other public body; (a) at any time after fifty percent of the original contract work has been completed, if it finds that satisfactory progress is being made, may make any of the partial payments which would otherwise be subsequently made in full; but in no event shall the amount to be retained be reduced to less than five percent of the amount of the moneys earned by the contractor; and (b) thirty days after completion and acceptance of all contract work other than landscaping, may release and pay in full the amounts retained during the performance of the contract (other than continuing retention of five percent of the moneys earned for landscaping) subject to the provisions of RCW 60.28.020.

(2) The moneys reserved under the provisions of subsection (1) of this section, at the option of the contractor, shall be:

(a) Retained in a fund by the public body until thirty days following the final acceptance of said improvement or work as completed; or

(b) Deposited by the public body in an interest bearing account in a bank, mutual savings bank, or savings and loan association, not subject to withdrawal until after the final acceptance of said improvement or work as completed, or until agreed to by both parties: *Provided*, That interest on such account shall be paid to the contractor;

(c) Placed in escrow with a bank or trust company by the public body until thirty days following the final acceptance of said improvement or work as completed.

When the moneys reserved are to be placed in escrow, the public body shall issue a check representing the sum of the moneys reserved payable to the bank or trust company and the contractor jointly. Such check shall be converted into bonds and securities chosen by the contractor and approved by the public body and such bonds and securities shall be held in escrow. Interest on such bonds and securities shall be paid to the contractor as the said interest accrues.

(3) If the public body administering a contract, other than a contract governed by the provisions of RCW 60.28.070, as amended, after a substantial portion of the work has been completed, finds that an unreasonable delay will occur in the completion of the remaining portion of the contract for any reason not the result of a breach thereof, it may, if the contractor agrees, delete from the contract the remaining work and accept as final the improvement at the stage of completion then attained and make payment in proportion to the amount of the work accomplished and in such case any amounts retained and accumulated under this section shall be held for a period of thirty days following such acceptance. In the event that the work shall have been terminated before final completion as provided in this section, the public body may thereafter enter into a new contract with the same contractor to perform the remaining work or improvement for an amount equal to or less than the cost of the remaining work as was provided for in the original contract without advertisement or bid. The provisions of this chapter 60.28 RCW shall be deemed exclusive and shall supersede all provisions and regulations in conflict herewith. [1977 1st ex.s. c 205 § 1; 1975 1st ex.s. c 104 § 1; 1970 ex.s. c 38 § 1; 1969 ex.s. c 151 § 1; 1963 c 238 § 1; 1955 c 236 § 1; 1921 c 166 § 1; RRS § 10320.]

Reviser's note: (1) RCW 60.28.010 was amended twice during the 1977 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once during the same session, see RCW 1.12.025.

* (2) "RCW 39.08.030 through 39.08.060" now codified in RCW 39.08.030.

Chapter 60.32

LABOR LIENS ON FRANCHISES, EARNINGS, AND PROPERTY OF CERTAIN COMPANIES

Sections

60.32.020 Notice of lien—Contents—Filing and serving.

60.32.020 Notice of lien—Contents—Filing and serving. No person shall be entitled to the lien given by RCW 60.32.010, unless he shall, within ninety days after he has ceased to perform labor for such person, company or corporation, filed for record with the county auditor of the county in which said labor was performed, or in which is located the principal office of such person, company or corporation in this state, a notice of claim, containing a statement of his demand, after deducting all just credits and offsets, the name of the person, company or corporation, and the name of the person or persons employing claimant, if known, with the statement of the terms and conditions of his contract, if any, and the time he commenced the employment, and the date of his last service, and shall serve a copy thereof on said person, company or corporation within thirty days after the same is so filed for record.

Any number of claimants may join in the same notice for the purpose of filing and enforcing their liens, but the amount claimed by each claimant shall be separately stated. [1977 1st ex.s. c 176 § 1; 1897 c 43 § 2; RRS § 1150.]

Chapter 60.68
LIEN FOR INTERNAL REVENUE TAXES

Sections

60.68.040 Auditor's fees.

60.68.040 Auditor's fees. The auditor shall receive five dollars for filing and indexing each notice of lien, and three dollars for each certificate of discharge.

The provisions of RCW 36.18.060 requiring advance payment of fees before performance of services shall not apply to the fees and services under this chapter. [1977 c 62 § 1; 1955 c 250 § 1; 1925 c 15 § 4; RRS § 11337-4.]

Title 62A
UNIFORM COMMERCIAL CODE

Articles

9 Secured transactions; sales of accounts, contract rights and chattel paper.

Article 9

**SECURED TRANSACTIONS; SALES OF
ACCOUNTS, CONTRACT RIGHTS AND CHATTEL
PAPER**

Sections

PART 3
**RIGHTS OF THIRD PARTIES; PERFECTED AND
UNPERFECTED SECURITY INTERESTS; RULES OF
PRIORITY**

62A.9-302 When filing is required to perfect security interest; security interests to which filing provisions of this Article do not apply.

PART 4
FILING

62A.9-401 Place of filing; erroneous filing; removal of collateral.
62A.9-403 What constitutes filing; duration of filing; effect of lapsed filing; duties of filing officer.
62A.9-404 Termination statement.
62A.9-405 Assignment of security interest; duties of filing officer; fees.
62A.9-406 Release of collateral; duties of filing officer; fees.
62A.9-409 Standard filing forms and uniform procedures; acceptance for filing of financial statements on and after June 12, 1967; laws governing; fees.

PART 3
**RIGHTS OF THIRD PARTIES; PERFECTED AND
UNPERFECTED SECURITY INTERESTS; RULES
OF PRIORITY**

62A.9-302 When filing is required to perfect security interest; security interests to which filing provisions of this Article do not apply. (1) A financing statement must be filed to perfect all security interests except the following:

(a) a security interest in collateral in possession of the secured party under RCW 62A.9-305;

(b) a security interest temporarily perfected in instruments or documents without delivery under RCW

62A.9-304 or in proceeds for a ten day period under RCW 62A.9-306;

(c) a purchase money security interest in farm equipment having a purchase price not in excess of two thousand five hundred dollars; but filing is required for a fixture under RCW 62A.9-313 or for a motor vehicle required to be licensed;

(d) a purchase money security interest in consumer goods; but filing is required for a fixture under RCW 62A.9-313 or for a motor vehicle required to be licensed;

(e) an assignment of accounts or contract rights which does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the outstanding accounts or contract rights of the assignor;

(f) a security interest of a collecting bank (RCW 62A.4-208) or arising under the Article on Sales (RCW 62A.9-113) or covered in subsection (3) of this section.

(2) If a secured party assigns a perfected security interest, no filing under this Article is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) The filing provisions of this Article do not apply to a security interest in property subject to a statute

(a) of the United States which provides for a national registration or filing of all security interests in such property; or

(b) of this state which provides for central filing of, or which requires indication on a certificate of title of, such security interests in such property.

(4) A security interest in property covered by a statute described in subsection (3) can be perfected only by registration or filing under that statute or by indication of the security interest on a certificate of title or a duplicate thereof by a public official.

(5) Part 4 of this Article does not apply to a security interest in property of any description created by a deed of trust or mortgage made by any corporation primarily engaged in the railroad or street railway business, the furnishing of telephone or telegraph service, the transmission of oil, gas or petroleum products by pipe line, or the production, transmission or distribution of electricity, steam, gas or water, but such security interest may be perfected under this Article by filing such deed of trust or mortgage with the department of motor vehicles. When so filed, such instrument shall remain effective until terminated, without the need for filing a continuation statement. Assignments and releases of such instruments may also be filed with the department of motor vehicles. The director of motor vehicles shall be a filing officer for the foregoing purposes, and the uniform fee for filing, indexing, and furnishing filing data pursuant to this subsection shall be five dollars. [1977 1st ex.s. c 117 § 6; 1967 c 114 § 4; 1965 ex.s. c 157 § 9-302. Cf. former RCW sections: (i) RCW 61.04.020; 1943 c 284 § 1; 1915 c 96 § 1; Code 1881 § 1987; Rem. Supp. 1943 § 3780; prior: 1879 p 105 § 2; 1877 p 286 § 3; 1875 p 44 § 3; 1863 p 426 § 1. (ii) RCW 61.20.030 and 61.20.090; 1943 c 71 §§ 3 and 9; Rem. Supp. 1943 §§ 11548-32 and 11548-38. (iii) RCW 61.20.080; 1957 c 249 § 2; 1943 c 71 § 8; Rem. Supp. 1943 § 11548-37. (iv) RCW

63.12.010; 1963 c 236 § 22; 1961 c 196 § 1; 1933 c 129 § 1; 1915 c 95 § 1; 1903 c 6 § 1; 1893 c 106 § 1; RRS § 3790. (v) RCW 63.16.030; 1947 c 8 § 3; Rem. Supp. 1947 § 2721-3.]

Reviser's note: (1) The section caption is the same as that originally enacted in 1965 ex.s. c 157 § 9-302. It was not included in the 1967 amendment to this section.

(2) The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Severability—Effective date—1977 1st ex.s. c 117: See notes following RCW 43.07.150.

Emergency—Effective date—1967 c 114: See note following RCW 62A.4-406.

Motor vehicles—Certificate of ownership and registration: RCW 46.12.010.

Seed bailment contracts: Filing, recording or notice of contract not required to establish validity of contract or title in bailor: RCW 15.48.270-15.48.290.

Transitory provisions regarding transfer of UCC powers, duties and functions of the secretary of state to department of licensing: See notes following RCW 43.07.150.

PART 4 FILING

62A.9-401 Place of filing; erroneous filing; removal of collateral. (1) The proper place to file in order to perfect a security interest is as follows:

(a) when the collateral is equipment used in farming operations, or farm products, or accounts, contract rights or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods, then in the office of the auditor in the county of the debtor's residence or if the debtor is not a resident of this state then in the office of the auditor in the county where the goods are kept, and in addition when the collateral is crops in the office of the auditor in the county where the land on which the crops are growing or to be grown is located;

(b) when the collateral is goods which at the time the security interest attaches are or are to become fixtures, then in the office where a mortgage on the real estate concerned would be filed or recorded;

(c) in all other cases, with the department of motor vehicles.

(2) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this Article and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

(3) A filing which is made in the proper place in this state continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.

(4) If collateral is brought into this state from another jurisdiction, the rules stated in RCW 62A.9-103 determine whether filing is necessary in this state. [1977 1st ex.s. c 117 § 7; 1965 ex.s. c 157 § 9-401. Cf. former RCW sections: (i) RCW 61.04.020; 1943 c 284 § 1; 1915 c 96 § 1; Code 1881 § 1987; Rem. Supp. 1943 §

3780; prior: 1879 p 105 § 2; 1877 p 286 § 3; 1875 p 44 § 3; 1863 p 426 § 1. (ii) RCW 61.20.030; 1943 c 71 § 3; Rem. Supp. 1943 § 11548-32. (iii) RCW 61.20.130; 1943 c 71 § 13; Rem. Supp. 1943 § 11548-42. (iv) RCW 63.12.010; 1963 c 236 § 22; 1961 c 196 § 1; 1933 c 129 § 1; 1915 c 95 § 1; 1903 c 6 § 1; 1893 c 106 § 1; RRS § 3790. (v) RCW 63.16.010(6); 1947 c 8 § 1; Rem. Supp. 1947 § 2721-1.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Severability—Effective date—1977 1st ex.s. c 117: See notes following RCW 43.07.150.

Transitory provisions regarding transfer of UCC powers, duties and functions of secretary of state to department of licensing: See notes following RCW 43.07.150.

62A.9-403 What constitutes filing; duration of filing; effect of lapsed filing; duties of filing officer. (1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this Article.

(2) A filed financing statement which states a maturity date of the obligation secured of five years or less is effective until such maturity date and thereafter for a period of sixty days. Any other filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of such sixty day period after a stated maturity date or on the expiration of such five year period, as the case may be, unless a continuation statement is filed prior to the lapse. Upon such lapse the security interest becomes unperfected. A filed financing statement which states that the obligation secured is payable on demand is effective for five years from the date of filing.

(3) A continuation statement may be filed by the secured party (i) within six months before and sixty days after a stated maturity date of five years or less, and (ii) otherwise within six months prior to the expiration of the five year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it.

(4) A filing officer shall mark each statement with a consecutive file number and with the date and hour of filing and shall hold the statement for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(5) The uniform fee for filing, indexing, and furnishing filing data for an original or a continuation statement on a form conforming to standards prescribed by the department of motor vehicles shall be three dollars, but if the form of the statement does not conform to the standards prescribed by the department the uniform fee shall be five dollars. [1977 1st ex.s. c 117 § 8; 1967 c 114 § 5; 1965 ex.s. c 157 § 9-403. Cf. former RCW sections: (i) RCW 61.04.030; 1959 c 263 § 11; 1953 c 214 § 3; 1943 c 284 § 2; 1899 c 98 § 2; Rem. Supp. 1943 § 3781. (ii) RCW 61.04.040; 1943 c 76 § 1; 1899 c 98 § 3; Rem. Supp. 1943 § 3782. (iii) RCW 61.04.050; 1899 c 98 § 4; RRS § 3783. (iv) RCW 61.20.130; 1943 c 71 § 13; Rem. Supp. 1943 § 11548-42. (v) RCW 63.12.020; 1933 c 129 § 2; 1903 c 6 § 2; 1893 c 106 § 2; RRS § 3791. (vi) RCW 63.16.040 through 63.16.060; 1947 c 8 §§ 4 through 6; Rem. Supp. 1947 §§ 2721-4 through 2721-6.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Severability—Effective date—1977 1st ex.s. c 117: See notes following RCW 43.07.150.

Emergency—Effective date—1967 c 114: See note following RCW 62A.4-406.

Transitory provisions regarding transfer of UCC powers, duties and functions of secretary of state to department of licensing: See notes following RCW 43.07.150.

62A.9-404 Termination statement. (1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor a statement that he no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must include or be accompanied by the assignment or a statement by the secured party of record that he has assigned the security interest to the signer of the termination statement. The uniform fee for filing and indexing such an assignment or statement thereof on a form conforming to standards prescribed by the department of motor vehicles shall be one dollar, but if the form of the statement does not conform to the standards prescribed by the department the uniform fee shall be two dollars. If the affected secured party fails to send such a termination statement within ten days after proper demand therefor he shall be liable to the debtor for one hundred dollars, and in addition for any loss caused to the debtor by such failure.

(2) On presentation to the filing officer of such a termination statement he must note it in the index. The filing officer shall remove from the files, mark "terminated" and send or deliver to the secured party the financing statement and any continuation statement, statement of assignment or statement of release pertaining thereto.

(3) There shall be no fee for filing and indexing a termination statement including sending or delivering the financing statement. [1977 1st ex.s. c 117 § 9; 1967 c 114 § 6; 1965 ex.s. c 157 § 9-404. Cf. former RCW sections: (i) RCW 61.16.040; 1959 c 263 § 12; 1953 c

214 § 4; 1943 c 284 § 4; 1937 c 133 § 1; 1899 c 98 § 8; Rem. Supp. 1943 § 3787. (ii) RCW 61.16.050; 1937 c 133 § 2 (adding to 1899 c 98 a new section, § 9); RRS § 3787-1. (iii) RCW 61.16.070; 1937 c 133 § 2 (adding to 1899 c 98 a new section, § 11); RRS § 3787-3. (iv) RCW 63.16.070; 1947 c 8 § 7; Rem. Supp. 1947 § 2721-7.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Severability—Effective date—1977 1st ex.s. c 117: See notes following RCW 43.07.150.

Emergency—Effective date—1967 c 114: See note following RCW 62A.4-406.

Transitory provisions regarding transfer of UCC powers, duties and functions of secretary of state to department of licensing: See notes following RCW 43.07.150.

62A.9-405 Assignment of security interest; duties of filing officer; fees. (1) A financing statement may disclose an assignment of a security interest in the collateral described in the statement by indication in the statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. Either the original secured party or the assignee may sign this statement as the secured party. On presentation to the filing officer of such a financing statement, the filing officer shall mark, hold, and index the same as provided in RCW 62A.9-403(4), and shall note the assignment on the index of the financing statement. The uniform fee for filing, indexing, and furnishing filing data for a financing statement so indicating an assignment on a form conforming to standards prescribed by the department of motor vehicles shall be three dollars, but if the form of the financing statement does not conform to the standards prescribed by the department the uniform fee shall be five dollars.

(2) A secured party may assign of record all or a part of his rights under a financing statement by the filing of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. He shall note the assignment on the index of the financing statement. The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment on a form conforming to standards prescribed by the department shall be one dollar, but if the form of the financing statement does not conform to the standards prescribed by the department the uniform fee shall be two dollars.

(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record. [1977 1st ex.s. c 117 § 10; 1967 c 114 § 7; 1965 ex.s. c 157 § 9-405. Cf. former RCW sections: (i) RCW 61.16.040; 1959 c 263 § 12; 1953 c 214 § 4; 1943 c 284

§ 4; 1937 c 133 § 1; 1899 c 98 § 8; Rem. Supp. 1943 § 3787. (ii) RCW 61.16.050; 1937 c 133 § 2 (adding to 1899 c 98 a new section, § 9); RRS § 3787-1.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Severability—Effective date—1977 1st ex.s. c 117: See notes following RCW 43.07.150.

Emergency—Effective date—1967 c 114: See note following RCW 62A.4-406.

Transitory provisions regarding transfer of UCC powers, duties and functions of secretary of state to department of licensing: See notes following RCW 43.07.150.

62A.9-406 Release of collateral; duties of filing officer; fees. A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. Upon presentation of such a statement to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release on a form conforming to standards prescribed by the department of motor vehicles shall be one dollar, but if the form of the statement does not conform to the standards prescribed by the department the uniform fee shall be two dollars. [1977 1st ex.s. c 117 § 11; 1967 c 114 § 9; 1965 ex.s. c 157 § 9-406. Cf. former RCW sections: (i) RCW 61.04.010; 1929 c 156 § 1; 1899 c 98 § 1; RRS § 3779; cf. 1881 § 1986; 1879 p 104 § 1; 1877 p 286 § 1; 1875 p 43 § 1. (ii) RCW 61.16.040; 1959 c 263 § 12; 1953 c 214 § 4; 1943 c 284 § 4; 1937 c 133 § 1; 1899 c 98 § 8; Rem. Supp. 1943 § 3787.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Severability—Effective date—1977 1st ex.s. c 117: See notes following RCW 43.07.150.

Emergency—Effective date—1967 c 114: See note following RCW 62A.4-406.

Transitory provisions regarding transfer of UCC powers, duties and functions of secretary of state to department of licensing: See notes following RCW 43.07.150.

62A.9-409 Standard filing forms and uniform procedures; acceptance for filing of financial statements on and after June 12, 1967; laws governing; fees. In relation to Article 62A.9 RCW:

(1) The department of motor vehicles may by rule prescribe standard filing forms and uniform procedures for filing with, and obtaining information from, filing officers.

(2) Unless a filing officer has filed with the secretary of state on or before June 1, 1967, his certificate that financing statements, as defined in RCW 62A.9-402, will not be accepted by him for filing on and after June 12, 1967, such filing officer shall accept such financing statements for filing on and after June 12, 1967. Financing statements so filed shall be received, marked,

indexed, and filed as provided in chapter 157, Laws of 1965 extraordinary session. The filing fees for filing such statements shall be as provided in chapter 157, Laws of 1965 extraordinary session, as amended. [1977 1st ex.s. c 117 § 12; 1967 c 114 § 12.]

Reviser's note: (1)(i) "chapter 157, Laws of 1965 extraordinary session" is codified as Title 62A RCW, Uniform Commercial Code.

(ii) The section caption for this section was added by the code reviser.

(2) The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Severability—Effective date—1977 1st ex.s. c 117: See notes following RCW 43.07.150.

Transitory provisions regarding transfer of UCC powers, duties and functions of secretary of state to department of licensing: See notes following RCW 43.07.150.

Title 64

REAL PROPERTY AND CONVEYANCES

Chapters

64.20 Alienation of land by Indians.

Chapter 64.20

ALIENATION OF LAND BY INDIANS

Sections

64.20.020 Repealed.

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

Title 65

RECORDING, REGISTRATION, AND LEGAL PUBLICATION

Chapters

65.08 Recording.
65.16 Legal publications.

Chapter 65.08

RECORDING

Sections

65.08.170 Notice of additional water or sewer facility tap or connection charges—Required—Contents.
65.08.180 Notice of additional water or sewer facility tap or connection charges—Duration—Certificate of payment and release.

65.08.170 Notice of additional water or sewer facility tap or connection charges—Required—Contents. When any municipality as defined in RCW 35.91.020 or any county has levied or intends to levy a charge on property pertaining to:

(1) The amount required by the provisions of a contract pursuant to RCW 35.91.020 under which the water

or sewer facilities so tapped into or used were constructed; or

(2) Any connection charges which are in fact reimbursement for the cost of facilities constructed by the sale of revenue bonds; or

(3) The additional connection charge authorized in RCW 35.92.025; such municipality or county shall record in the office in which deeds are recorded of the county or counties in which such facility is located a notice of additional tap or connection charges. Such notice shall contain either the legal description of the land affected by such additional tap or connection charges or a map making appropriate references to the United States government survey showing in outline the land affected or to be affected by such additional tap or connection charges. [1977 c 72 § 1.]

65.08.180 Notice of additional water or sewer facility tap or connection charges—Duration—Certificate of payment and release. The notice required by RCW 65.08.170, when duly recorded, shall be effective until there is recorded in the same office in which the notice was recorded a certificate of payment and release executed by the municipality or county. Such certificate shall contain a legal description of the particular parcel of land so released and shall be recorded within thirty days of the date of payment thereof. [1977 c 72 § 2.]

Chapter 65.16

LEGAL PUBLICATIONS

Sections

65.16.090	Repealed.
65.16.091	Rates for legal notices.
65.16.160	Publication of ordinances.

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

65.16.091 Rates for legal notices. The rate charged by a newspaper for legal notices shall not exceed the national advertising rate extended by the newspaper to all general advertisers and advertising agencies in its published rate card. [1977 c 34 § 3.]

65.16.160 Publication of ordinances. (1) Whenever any county, city, or town is required by law to publish legal notices containing the full text of any proposed or adopted ordinance in a newspaper, the county, city, or town may publish a summary of the ordinance which summary shall be approved by the governing body and which shall include:

- The name of the county, city, or town;
- The formal identification or citation number of the ordinance;
- A descriptive title;
- A section-by-section summary;
- Any other information which the county, city, or town finds is necessary to provide a complete summary; and

(f) A statement that the full text will be mailed upon request.

(2) Subsection (1) of this section notwithstanding, whenever any publication is made under this section and the proposed or adopted ordinance contains provisions regarding taxation or penalties or contains legal descriptions of real property, then the sections containing this matter shall be published in full and shall not be summarized. When a legal description of real property is involved, the notice shall also include the street address or addresses of the property described, if any. In the case of descriptions covering more than one street address, the street addresses of the four corners of the area described shall meet this requirement.

(3) The full text of any ordinance which is summarized by publication under this section shall be mailed without charge to any person who requests the text from the adopting county, city, or town. [1977 c 34 § 4.]

Title 66

ALCOHOLIC BEVERAGE CONTROL

Chapters

66.04	Definitions.
66.08	Liquor control board—General provisions.
66.24	Licenses—Stamp taxes.
66.28	Miscellaneous regulatory provisions.

Chapter 66.04

DEFINITIONS

Sections

66.04.011	"Public place" not to include certain parks and picnic areas.
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66.04.011 "Public place" not to include certain parks and picnic areas. "Public place" as defined in this title shall not include (a) any of those parks under the control of the state parks and recreation commission, nor, (b) parks and picnic areas adjacent to and held by the same ownership as licensed brewers and domestic wineries for the consumption of beer and wine produced by the respective brewery or winery, as prescribed by regulation adopted by the board pursuant to chapter 34.04 RCW. [1977 1st ex.s. c 219 § 1; 1971 ex.s. c 208 § 3.]

Chapter 66.08

LIQUOR CONTROL BOARD—GENERAL PROVISIONS

Sections

66.08.028	Reports by board to governor and legislature.
66.08.030	Regulations—Scope.
66.08.200	Liquor revolving fund—Computation for distribution to counties—"Unincorporated area" defined.
66.08.210	Liquor revolving fund—Computation for distribution to cities.

66.08.028 Reports by board to governor and legislature. The board shall, from time to time, make reports to the governor covering such matters in connection with the administration and enforcement of this title as he may require, and the board shall prepare and forward to the governor annually, to be laid before the legislature, a report for the fiscal year containing:

(1) A financial statement and balance sheet showing in general the condition of the business and its operation during the year;

(2) A summary of all prosecutions for infractions and the results thereof;

(3) General information and remarks; and

(4) Any further information requested by the governor. [1977 c 75 § 79; 1955 c 182 § 1; 1935 c 174 § 13; 1933 ex.s. c 62 § 72; RRS § 7306-72. Formerly RCW 43.66.170.]

66.08.030 Regulations—Scope. (1) For the purpose of carrying into effect the provisions of this title according to their true intent or of supplying any deficiency therein, the board may make such regulations not inconsistent with the spirit of this title as are deemed necessary or advisable. All regulations so made shall be a public record and shall be filed in the office of the code reviser, and thereupon shall have the same force and effect as if incorporated in this title. Such regulations, together with a copy of this title, shall be published in pamphlets and shall be distributed as directed by the board.

(2) Without thereby limiting the generality of the provisions contained in subsection (1), it is declared that the power of the board to make regulations in the manner set out in that subsection shall extend to

(a) regulating the equipment and management of stores and warehouses in which state liquor is sold or kept, and prescribing the books and records to be kept therein and the reports to be made thereon to the board;

(b) prescribing the duties of the employees of the board, and regulating their conduct in the discharge of their duties;

(c) governing the purchase of liquor by the state and the furnishing of liquor to stores established under this title;

(d) determining the classes, varieties, and brands of liquor to be kept for sale at any store;

(e) prescribing, subject to RCW 66.16.080, the hours during which the state liquor stores shall be kept open for the sale of liquor;

(f) providing for the issuing and distributing of price lists showing the price to be paid by purchasers for each variety of liquor kept for sale under this title;

(g) prescribing an official seal and official labels and stamps and determining the manner in which they shall be attached to every package of liquor sold or sealed under this title, including the prescribing of different official seals or different official labels for different classes of liquor;

(h) providing for the payment by the board in whole or in part of the carrying charges on liquor shipped by freight or express;

(i) prescribing forms to be used for purposes of this title or the regulations, and the terms and conditions to be contained in permits and licenses issued under this title;

(j) prescribing the fees payable in respect of permits and licenses issued under this title for which no fees are prescribed in this title, and prescribing the fees for anything done or permitted to be done under the regulations;

(k) prescribing the kinds and quantities of liquor which may be kept on hand by the holder of a special permit for the purposes named in the permit, regulating the manner in which the same shall be kept and disposed of, and providing for the inspection of the same at any time at the instance of the board;

(l) regulating the sale of liquor kept by the holders of licenses which entitle the holder to purchase and keep liquor for sale;

(m) prescribing the records of purchases or sales of liquor kept by the holders of licenses, and the reports to be made thereon to the board, and providing for inspection of the records so kept;

(n) prescribing the kinds and quantities of liquor for which a prescription may be given, and the number of prescriptions which may be given to the same patient within a stated period;

(o) prescribing the manner of giving and serving notices required by this title or the regulations, where not otherwise provided for in this title;

(p) regulating premises in which liquor is kept for export from the state, or from which liquor is exported, prescribing the books and records to be kept therein and the reports to be made thereon to the board, and providing for the inspection of the premises and the books, records and the liquor so kept;

(q) prescribing the conditions and qualifications requisite for the obtaining of club licenses and the books and records to be kept and the returns to be made by clubs, prescribing the manner of licensing clubs in any municipality or other locality, and providing for the inspection of clubs;

(r) prescribing the conditions, accommodations and qualifications requisite for the obtaining of licenses to sell beer and wines, and regulating the sale of beer and wines thereunder;

(s) specifying and regulating the time and periods when, and the manner, methods and means by which manufacturers shall deliver liquor within the state; and the time and periods when, and the manner, methods and means by which liquor may lawfully be conveyed or carried within the state;

(t) providing for the making of returns by brewers of their sales of beer shipped within the state, or from the state, showing the gross amount of such sales and providing for the inspection of brewers' books and records, and for the checking of the accuracy of any such returns;

(u) providing for the making of returns by the wholesalers of beer whose breweries are located beyond the boundaries of the state;

(v) providing for the making of returns by any other liquor manufacturers, showing the gross amount of

liquor produced or purchased, the amount sold within and exported from the state, and to whom so sold or exported, and providing for the inspection of the premises of any such liquor manufacturers, their books and records, and for the checking of any such return;

(w) providing for the giving of fidelity bonds by any or all of the employees of the board: *Provided*, That the premiums therefor shall be paid by the board;

(x) providing for the shipment by mail or common carrier of liquor to any person holding a permit and residing in any unit which has, by election pursuant to this title, prohibited the sale of liquor therein;

(y) prescribing methods of manufacture, conditions of sanitation, standards of ingredients, quality and identity of alcoholic beverages manufactured, sold, bottled, or handled by licensees and the board; and conducting from time to time, in the interest of the public health and general welfare, scientific studies and research relating to alcoholic beverages and the use and effect thereof;

(z) seizing, confiscating and destroying all alcoholic beverages manufactured, sold or offered for sale within this state which do not conform in all respects to the standards prescribed by this title or the regulations of the board: *Provided*, Nothing herein contained shall be construed as authorizing the liquor board to prescribe, alter, limit or in any way change the present law as to the quantity or percentage of alcohol used in the manufacturing of wine or other alcoholic beverages. [1977 1st ex.s. c 115 § 1; 1971 c 62 § 1; 1943 c 102 § 1; 1933 ex.s. c 62 § 79; RRS § 7306-79. Formerly RCW 66.08.030 and 66.08.040.]

66.08.200 Liquor revolving fund—Computation for distribution to counties—"Unincorporated area" defined. With respect to the ten percent share coming to the counties, the computations for distribution shall be made by the state agency responsible for collecting the same as follows:

The share coming to each eligible county shall be determined by a division among the eligible counties according to the relation which the population of the unincorporated area of such eligible county, as last determined by the office of program planning and fiscal management, bears to the population of the total combined unincorporated areas of all eligible counties, as determined by the office of program planning and fiscal management: *Provided*, That no county in which the sale of liquor is forbidden in the unincorporated area thereof as the result of an election shall be entitled to share in such distribution. "Unincorporated area" means all that portion of any county not included within the limits of incorporated cities and towns.

When a special county census has been conducted for the purpose of determining the population base of a county's unincorporated area for use in the distribution of liquor funds, the census figure shall become effective for the purpose of distributing funds as of the official census date once the census results have been certified by the office of program planning and fiscal management and officially submitted to the office of the secretary of state. [1977 1st ex.s. c 110 § 2; 1957 c 175 § 7. Prior: 1955 c 109 § 3; 1949 c 187 § 1, part; 1939 c 173 §

1, part; 1937 c 62 § 2, part; 1935 c 80 § 1, part; 1933 ex.s. c 62 § 78, part; Rem. Supp. 1949 § 7306-78, part. Formerly RCW 43.66.100.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

66.08.210 Liquor revolving fund—Computation for distribution to cities. With respect to the forty percent share coming to the incorporated cities and towns, the computations for distribution shall be made by the state agency responsible for collecting the same as follows:

The share coming to each eligible city or town shall be determined by a division among the eligible cities and towns within the state ratably on the basis of population as last determined by the office of program planning and fiscal management: *And provided*, That no city or town in which the sale of liquor is forbidden as the result of an election shall be entitled to any share in such distribution. [1977 1st ex.s. c 110 § 3; 1957 c 175 § 8. Prior: 1949 c 187 § 1, part; 1939 c 173 § 1, part; 1937 c 62 § 2, part; 1935 c 80 § 1, part; 1933 ex.s. c 62 § 78, part; Rem. Supp. 1949 § 7306-78, part. Formerly RCW 43.66.110.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Allocation of state funds on population basis: RCW 43.62.020, 43.62.030.

Determining population of territory annexed to city: RCW 35.13.260.

Planning and community affairs agency, determination of population: Chapter 43.62 RCW.

Chapter 66.24

LICENSES—STAMP TAXES

Sections

66.24.320	Beer retailer's license—Class A.
66.24.330	Beer retailer's license—Class B.
66.24.340	Wine retailer's license—Class C.
66.24.400	Liquor by the drink, class H licenses.
66.24.420	Liquor by the drink, class H licenses—Schedule of fees—Location—Number of licenses.
66.24.490	Special occasion license—Class I—Fee.

66.24.320 Beer retailer's license—Class A. There shall be a beer retailer's license to be designated as a class A license to sell beer at retail, for consumption on the premises and to sell unpasteurized beer for consumption off the premises: *Provided, however*, That unpasteurized beer so sold must be in original sealed packages of the manufacturer or bottler of not less than seven and three-fourths gallons: *And provided further*, That unpasteurized beer may be sold to a purchaser in a sanitary container brought to the premises by the purchaser and filled at the tap by the retailer at the time of sale; such license to be issued only to hotels, restaurants, drug stores or soda fountains, dining places on boats and airplanes, to clubs, and at sports arenas or race tracks during recognized professional athletic events. The annual fee for said license, if issued in cities and towns,

shall be graduated according to the population thereof as follows:

Cities and towns of less than 10,000; fee \$62.50;

Cities and towns of 10,000 and less than 100,000; fee \$125.00;

Cities and towns of 100,000 or over; fee \$187.50;

The annual fee for such license, if issued outside of cities and towns, shall be sixty-two dollars and fifty cents: *Provided, however,* That where dancing is permitted on the premises, the fee shall be one hundred eighty-seven dollars and fifty cents; the annual license fee for such license, if issued to dining places on vessels not exceeding one thousand gross tons, plying on inland waters of the state of Washington on regular schedules, shall be sixty-two dollars and fifty cents. [1977 1st ex.s. c 9 § 1; 1969 c 117 § 1; 1967 ex.s. c 75 § 2; 1941 c 220 § 1; 1937 c 217 § 1 (23 M) (adding new section 23-M to 1933 ex.s. c 62); Rem. Supp. 1941 § 7306-23M.]

66.24.330 Beer retailer's license—Class B. There shall be a beer retailer's license to be designated as a class B license to sell beer at retail, for consumption on the premises and to sell unpasteurized beer for consumption off the premises: *Provided, however,* That unpasteurized beer so sold must be in original sealed packages of the manufacturer or bottler of not less than seven and three-fourths gallons: *And provided further,* That unpasteurized beer may be sold to a purchaser in a sanitary container brought to the premises by the purchaser and filled at the tap by the retailer at the time of sale; such license to be issued only to a person operating a tavern. The annual fee for said license, if issued in cities and towns, shall be graduated according to the population thereof as follows:

Cities and towns of less than 10,000; fee \$62.50;

Cities and towns of 10,000 and less than 100,000; fee \$125.00;

Cities and towns of 100,000 or over; fee \$187.50;

The annual fee for such license, if issued outside of cities and towns, shall be sixty-two dollars and fifty cents: *Provided, however,* That where dancing is permitted on the premises, the fee shall be one hundred eighty-seven dollars and fifty cents. [1977 1st ex.s. c 9 § 2; 1973 1st ex.s. c 209 § 15; 1967 ex.s. c 75 § 3; 1941 c 220 § 2; 1937 c 217 § 1 (23 N) (adding new section 23-N to 1933 ex.s. c 62); Rem. Supp. 1941 § 7306-23N.]

Severability—Effective date—1973 1st ex.s. c 209: See notes following RCW 66.08.070.

Effective date—1967 ex.s. c 75: See note following RCW 66.08.180.

66.24.340 Wine retailer's license—Class C. There shall be a wine retailer's license to be designated as a class C license to sell wine at retail, for consumption on the premises only; such license to be issued to hotels, restaurants, dining places on boats and airplanes, clubs, and to taverns. The annual fee for said license, when issued in cities and towns, shall be graduated according to the population thereof as follows:

Cities and towns of less than 10,000; fee \$47.00;

Cities and towns of 10,000 and less than 100,000; fee \$93.75;

Cities and towns of 100,000 or over; fee \$140.50;

The annual fee, when issued outside of the limits of cities and towns, shall be forty-seven dollars: *Provided, however,* That where dancing is permitted on the premises, the fee shall be one hundred forty dollars and fifty cents; the annual license fee for such license, if issued to dining places on vessels not exceeding one thousand gross tons plying only on inland waters of the state of Washington on regular schedules, shall be forty-seven dollars. [1977 1st ex.s. c 9 § 3; 1967 ex.s. c 75 § 4; 1941 c 220 § 3; 1937 c 217 § 1 (23-O) (adding new section 23-O to 1933 ex.s. c 62); Rem. Supp. 1941 § 7306-23 O.]

Effective date—1967 ex.s. c 75: See note following RCW 66.08.180.

66.24.400 Liquor by the drink, class H licenses. There shall be a retailer's license, to be known and designated as class H license, to sell spirituous liquor by the individual glass, beer, and wine, at retail, for consumption on the premises, including mixed drinks and cocktails compounded or mixed on the premises only. Such class H license may be issued only to bona fide restaurants, hotels and clubs, and to dining, club and buffet cars on passenger trains, and to dining places on passenger boats and airplanes, and to dining places at publicly owned civic centers with facilities for sports, entertainment, and conventions, and to such other establishments operated and maintained primarily for the benefit of tourists, vacationers and travelers as the board shall determine are qualified to have, and in the discretion of the board should have, a class H license under the provisions and limitations of this title. [1977 1st ex.s. c 9 § 4; 1971 ex.s. c 208 § 1; 1949 c 5 § 1 (adding new section 23-S-1 to 1933 ex.s. c 62); Rem. Supp. 1949 § 7306-23S-1.]

Severability—1949 c 5: "If any section or provision of this act shall be adjudged to be invalid, such adjudication shall not affect the validity of the act as a whole or any section, provision, or part thereof not adjudged to be invalid." [1949 c 5 § 17.] This applies to RCW 66.08.012, 66.08.014, 66.08.180, 66.08.220, 66.24.400-66.24.470, 66.28.080, 66.40.010, 66.40.030 and 66.40.130.

66.24.420 Liquor by the drink, class H licenses—Schedule of fees—Location—Number of licenses. (1) The class H license shall be issued in accordance with the following schedule of annual fees:

(a) The annual fee for said license, if issued to a club, whether inside or outside of incorporated cities and towns, shall be three hundred thirty dollars.

(b) The annual fee for said license, if issued to any other class H licensee in incorporated cities and towns, shall be graduated according to the population thereof as follows:

Incorporated cities and towns of less than 10,000 population; fee \$550.00;

Incorporated cities and towns of 10,000 and less than 100,000 population; fee \$825.00;

Incorporated cities and towns of 100,000 population and over; fee \$1,100.00.

(c) The annual fee for said license when issued to any other class H licensee outside of incorporated cities and towns shall be: one thousand one hundred dollars; this

fee shall be prorated according to the calendar months, or major portion thereof, during which the licensee is open for business, except in case of suspension or revocation of the license.

(d) Where the license shall be issued to any corporation, association or person operating a bona fide restaurant in an airport terminal facility providing service to transient passengers with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place: *Provided*, That the holder of a master license for a restaurant in an airport terminal facility shall be required to maintain in a substantial manner at least one place on the premises for preparing, cooking and serving of complete meals, and such food service shall be available on request in other licensed places on the premises: *Provided, further*, That an additional license fee of twenty-five percent of the annual master license fee shall be required for such duplicate licenses.

(e) Where the license shall be issued to any corporation, association, or person operating dining places at publicly owned civic centers with facilities for sports, entertainment, and conventions, with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place: *Provided*, That the holder of a master license for a dining place at such a publicly owned civic center shall be required to maintain in a substantial manner at least one place on the premises for preparing, cooking and serving of complete meals, and food service shall be available on request in other licensed places on the premises: *Provided further*, That an additional license fee of ten dollars shall be required for such duplicate licenses.

(f) Where the license shall be issued to any corporation, association or person operating more than one building containing dining places at privately owned facilities which are open to the public and where there is a continuity of ownership of all adjacent property, such license shall be issued upon the payment of an annual fee which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to the additional dining places on the property at the discretion of the board and a duplicate license may be issued for each additional place: *Provided*, That the holder of the master license for the dining place shall not offer alcoholic beverages for sale, service, and consumption at the additional place unless food service is available at both the location of the master license and the duplicate license: *Provided further*, That an additional license fee of twenty dollars shall be required for such duplicate licenses.

(2) The board, so far as in its judgment is reasonably possible, shall confine class H licenses to the business districts of cities and towns and other communities, and not grant such licenses in residential districts, nor within the immediate vicinity of schools, without being limited in the administration of this subsection to any specific distance requirements.

(3) The board shall have discretion to issue class H licenses outside of cities and towns in the state of Washington. The purpose of this subsection is to enable the board, in its discretion, to license in areas outside of cities and towns and other communities, establishments which are operated and maintained primarily for the benefit of tourists, vacationers and travelers, and also golf and country clubs, and common carriers operating dining, club and buffet cars, or boats.

(4) The total number of class H licenses issued in the state of Washington by the board shall not in the aggregate at any time exceed one license for each fifteen hundred of population in the state, determined according to the last available federal census.

(5) Notwithstanding the provisions of subsection (4) of this section, the board shall refuse a class H license to any applicant if in the opinion of the board the class H licenses already granted for the particular locality are adequate for the reasonable needs of the community. [1977 1st ex.s. c 219 § 4; 1975 1st ex.s. c 245 § 1; 1971 ex.s. c 208 § 2; 1970 ex.s. c 13 § 2. Prior: 1969 ex.s. c 178 § 6; 1969 ex.s. c 136 § 1; 1965 ex.s. c 143 § 3; 1949 c 5 § 3 (adding new section 23S-3 to 1933 ex.s. c 62); Rem. Supp. 1949 § 7306-23S-3.]

66.24.490 Special occasion license—Class I—Fee. There shall be a retailer's license to be designated as a class I license; this shall be a special occasion license to be issued to the holder of a class H license to extend his privilege of selling and serving spirituous liquor by the individual glass, beer, and wine, at retail, for consumption on the premises, to members and guests of a society or organization on special occasions at a specified date and place when such special occasions of such groups are held on premises other than a class H licensed premises and for consumption on the premises of such outside location. The holder of such special occasion license shall be allowed to remove from his liquor stocks at his licensed class H premises, liquor for sale and service at such special occasion locations: *Provided*, That such special license shall be issued only when the facilities of class H licensees in the particular city or county are not suitable and adequate to accommodate the number of persons attending such special occasion: *And provided further*, That the Washington state liquor control board may issue banquet permits when such groups prefer to provide their own liquor under such a permit rather than avail themselves of sale and service of liquor by the holder of a class I license. Such special class I license shall be issued for a specified date and place and upon payment of a fee of twenty-five dollars per day. [1977 1st ex.s. c 9 § 5; 1969 ex.s. c 178 § 7; 1967 c 55 § 1.]

Chapter 66.28

MISCELLANEOUS REGULATORY PROVISIONS

Sections

66.28.010 Manufacturers, importers and wholesalers barred from interest in retail business or location—Advances prohibited—"Financial interest" defined.

66.28.010 Manufacturers, importers and wholesalers barred from interest in retail business or location—Advances prohibited—"Financial interest" defined. No manufacturer, importer, or wholesaler, or person financially interested, directly or indirectly, in such business, whether resident or nonresident, shall have any financial interest, direct or indirect, in any licensed retail business, nor shall any manufacturer, importer, or wholesaler own any of the property upon which such licensed persons conduct their business, nor shall any such licensed person, under any arrangement whatsoever, conduct his business upon property in which any manufacturer, importer, or wholesaler has any interest, nor shall any manufacturer, importer, or wholesaler advance moneys or moneys' worth to any such licensed person under any arrangement whatsoever, nor shall any such licensed person receive, under any arrangement whatsoever, any such advance of moneys or moneys' worth. No manufacturer, importer, or wholesaler shall be eligible to receive or hold a retail license under this title, nor shall such manufacturer, importer, or wholesaler sell at retail any liquor as herein defined: *Provided*, That nothing in this section shall prohibit a licensed brewer or domestic winery from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine of its own production at retail on the brewery or winery premises. Such beer and wine so sold at retail shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting and bonding requirements as prescribed by regulations adopted by the board pursuant to chapter 34.04 RCW: *Provided further*, That nothing in this section shall prohibit a licensed brewer or domestic winery, or a lessee of a licensed brewer or domestic winery, from being licensed as a class H restaurant pursuant to chapter 66.24 RCW for the purpose of selling liquor at a class H premises on the property on which the primary manufacturing facility of the licensed brewer or domestic winery is located or on contiguous property owned by the licensed brewer or domestic winery as prescribed by regulations adopted by the board pursuant to chapter 34.04 RCW.

Financial interest, direct or indirect, as used in this section, shall include any interest, whether by stock ownership, mortgage, lien, or through interlocking directors, or otherwise. Pursuant to rules promulgated by the board in accordance with chapter 34.04 RCW manufacturers, wholesalers and importers may perform, and retailers may accept the service of building, rotating and restocking case displays and stock room inventories; rotating and rearranging can and bottle displays of their own products; provide point of sale material and brand signs; price case goods of their own brands; and perform such similar normal business services as the board may by regulation prescribe. [1977 1st ex.s. c 219 § 2; 1975-

'76 2nd ex.s. c 74 § 3; 1975 1st ex.s. c 173 § 6; 1937 c 217 § 6; 1935 c 174 § 14; 1933 ex.s. c 62 § 90; RRS § 7306-90. Prior: 1909 c 84 § 1.]

Effective date—1975-'76 2nd ex.s. c 74: See note following RCW 66.24.310.

Severability—**Effective date**—1975 1st ex.s. c 173: See notes following RCW 66.08.050.

Title 67

ATHLETICS, SPORTS AND ENTERTAINMENT

Chapters

67.08 Boxing and wrestling.
67.16 Horse racing.
67.32 Washington state recreation trails system.

Chapter 67.08

BOXING AND WRESTLING

Sections

67.08.003 Official bonds—Expenses.
67.08.015 Duties of commission—Licensing—Exemption as to scholastic organizations—Examination of contestants—Weight classifications—Compliance required.
67.08.020 Repealed.
67.08.025 Repealed.

67.08.003 Official bonds—Expenses. Before entering upon the duties of his office, each commissioner shall enter into a surety bond, executed by a surety company authorized to do business in this state, payable to the state, and approved by the attorney general, in the penal sum of two thousand dollars conditioned upon the faithful performance of his duties, which bond shall be filed with the secretary of state. Each member of the commission shall be reimbursed for the cost of his bond and receive forty dollars per day and travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended while in the performance of his duties. [1977 c 9 § 1. Prior: 1975-'76 2nd ex.s. c 48 § 1; 1975-'76 2nd ex.s. c 34 § 153; 1959 c 305 § 1; 1933 c 184 § 2; RRS § 8276-2. Formerly RCW 43.48.020.]

Effective date—**Severability**—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

67.08.015 Duties of commission—Licensing—Exemption as to scholastic organizations—Examination of contestants—Weight classifications—Compliance required. The commission shall have power and it shall be its duty to direct, supervise, and control all boxing contests or sparring and wrestling matches or exhibitions conducted within the state and no such boxing contest, sparring or wrestling match or exhibition shall be held or given within this state except in accordance with the provisions of this chapter. The commission may, in its discretion, issue and for cause revoke a license to conduct, hold or give boxing, sparring and/or wrestling

contests, matches, and exhibitions where an admission fee is charged by any club, corporation, organization, association, or fraternal society: *Provided, however*, That all boxing contests, sparring or wrestling matches or exhibitions which:

(1) Are conducted by any common school, college, or university, whether public or private, or by the official student association thereof, whether on or off the school, college, or university grounds, where all the participating contestants are bona fide students enrolled in any common school, college, or university, within or without this state; or

(2) Are entirely amateur events promoted on a non-profit basis or for charitable purposes; shall not be subject to the provisions of this chapter: *Provided, further*, That every contestant in any boxing contest, sparring or wrestling match not conducted under the provisions of this chapter, prior to engaging in any such contest or match, shall be examined by a practicing physician at least once in each calendar year or, where such contest is conducted by a common school, college or university as further described in this section, once in each academic year in which instance such physician shall also designate the maximum and minimum weights at which such contestant shall be medically certified to participate: *Provided further*, That no contestant shall be permitted to participate in any such boxing contest, sparring or wrestling match or exhibition in any weight classification other than that or those for which he is certificated: *Provided further*, That the organizations exempted by this section from the provisions of this chapter shall be governed by RCW 67.08.080 as said section applies to boxing contests, sparring or wrestling matches or exhibitions conducted by organizations exempted by this section from the general provisions of this chapter. No boxing contest or sparring or wrestling match or exhibition shall be conducted within the state except pursuant to a license issued in accordance with the provisions of this chapter and the rules and regulations of the commission except as hereinabove provided. [1977 c 9 § 2. Prior: 1975-'76 2nd ex.s. c 48 § 3; 1975 c 1 § 1; 1973 c 53 § 1; 1951 c 48 § 2.]

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

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

Chapter 67.16 HORSE RACING

Sections

67.16.015	Washington horse racing commission—Organization—Secretary—Records—Annual reports.
67.16.100	Gross receipts and fees—Commission's percentage—Disposition—"Fair fund" and "state trade fair fund"
67.16.101	Legislative finding—Responsibilities of horse racing commission—Availability of interest on one percent of gross receipts to support small race courses.
67.16.102	Additional one percent of gross receipts to be withheld—Payment to owners—Payment of interest

on one percent and amount retained by commission under RCW 67.16.100.

67.16.015 Washington horse racing commission—Organization—Secretary—Records—Annual reports. The commission shall organize by electing one of its members chairman, and shall appoint and employ a secretary, and such other clerical, office, and other help as is necessary in the performance of the duties imposed upon it by this chapter. The commission shall keep detailed records of all meetings and of the business transacted therein, and of all the collections and disbursements. The commission shall prepare and submit an annual report to the governor. All records of the commission shall be public records and as such, subject to public inspection. [1977 c 75 § 80; 1933 c 55 § 3; RRS § 8312-3. Formerly RCW 43.50.020.]

67.16.100 Gross receipts and fees—Commission's percentage—Disposition—"Fair fund" and "state trade fair fund". In addition to the license fees required by this chapter the licensee shall pay to the commission five percent of the gross receipts of all parimutuel machines at each race meet, which sums shall be paid daily to the commission.

All sums paid to the commission, together with all sums collected for license fees under the provisions of this chapter, shall be disposed of by the commission as follows: Twenty percent thereof shall be retained by the commission for the payment of the salaries of its members, secretary, clerical, office, and other help and all expenses incurred in carrying out the provisions of this chapter. No salary, wages, expenses, or compensation of any kind shall be paid by the state in connection with the work of the commission. Of the remaining eighty percent, forty-seven percent shall, on the next business day following the receipt thereof, be paid to the state treasurer to be deposited in the general fund, and three percent shall, on the next business day following the receipt thereof, be paid to the state treasurer, who is hereby made ex officio treasurer of a fund to be known as the "state trade fair fund" which shall be maintained as a separate and independent fund, and made available to the director of commerce and economic development for the sole purpose of assisting state trade fairs. The remaining thirty percent shall be paid to the state treasurer, who is hereby made ex officio treasurer of a fund to be known as the "fair fund," which shall be maintained as a separate and independent fund outside of the state treasury, and made available to the director of agriculture for the sole purpose of assisting fairs in the manner provided in Title 15 RCW. Any moneys collected or paid to the commission under the terms of this chapter and not expended at the close of the fiscal biennium shall be paid to the state treasurer and be placed in the general fund. The commission may, with the approval of the office of program planning and fiscal management, retain any sum required for working capital. [1977 c 75 § 81; 1965 c 148 § 7; 1955 c 106 § 5; 1947 c 34 § 2; 1941 c 48 § 4; 1935 c 182 § 30; 1933 c 55 § 9; Rem. Supp. 1947 § 8312-9.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

State international trade fairs: RCW 43.31.790-43.31.860.

Transfer of surplus funds in state trade fair fund to general fund: RCW 43.31.831-43.31.834.

67.16.101 Legislative finding—Responsibilities of horse racing commission—Availability of interest on one percent of gross receipts to support small race courses. The legislature finds that:

(1) A primary responsibility of the horse racing commission is the encouragement of the training and development of the equine industry in the state of Washington whether the result of this training and development results in legalized horse racing or in the recreational use of horses;

(2) The horse racing commission has a further major responsibility to assure that any facility used as a race course should be maintained and upgraded to insure the continued safety of both the public and the horse at any time the facility is used for the training or contesting of these animals;

(3) Small race courses within the state have difficulty in obtaining sufficient funds to provide the maintenance and upgrading necessary to assure this safety at these facilities, or to permit frequent use of these facilities by 4-H children or other horse owners involved in training; and

(4) The one percent of the parimutuel machine gross receipts used to pay a special purse to the licensed owners of Washington bred horses is available for the purpose of drawing interest, thereby obtaining sufficient funds to be disbursed to achieve the necessary support to these small race courses. [1977 1st ex.s. c 372 § 1.]

Severability—1977 1st ex.s. c 372: "If any provision of this 1977 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." [1977 1st ex.s. c 372 § 3.]

67.16.102 Additional one percent of gross receipts to be withheld—Payment to owners—Payment of interest on one percent and amount retained by commission under RCW 67.16.100. Notwithstanding any other provision of chapter 67.16 RCW to the contrary the licensee shall withhold and shall pay daily to the commission, in addition to the fifteen percent authorized by this chapter, one percent of the gross receipts of all parimutuel machines at each race meet which sums shall, at the end of each meet, be paid by the commission to the licensed owners of those horses finishing first, second, third and fourth Washington bred only at each meet from which the additional one percent is derived in accordance with an equitable distribution formula to be promulgated by the commission prior to the commencement of each race meet: *Provided*, That nothing in this section shall apply to race meets which are nonprofit in nature, or of six days or less or which have a total annual handle of less than two hundred thousand dollars: *Provided*, That the additional one percent of the gross receipts of all parimutuel machines at each race meet and the amount retained by the commission as

specified in RCW 67.16.100 shall be deposited daily in a time deposit by the commission and the interest derived therefrom shall be distributed annually on an equal basis to those county legislative authorities that operate fairs, authorized by chapter 36.37 RCW, and race courses at which independent race meets are held which are nonprofit in nature and are of six days or less: *Provided*, That such county legislative authorities have approved and are operating a program of use for said race course for year-round equine training and quartering: *Provided, further*, That said distributed funds shall be used for the purpose of maintaining and upgrading the respective racing courses and equine quartering areas of said nonprofit meets. The commission shall not permit the licensees to take into consideration the benefits derived from this section in establishing purses. [1977 1st ex.s. c 372 § 2; 1969 ex.s. c 233 § 3.]

Severability—1977 1st ex.s. c 372: See note following RCW 67.16.101.

Chapter 67.32

WASHINGTON STATE RECREATION TRAILS SYSTEM

Sections

67.32.080

Categories of trails or areas—Policy statement as to certain state lands.

67.32.080 Categories of trails or areas—Policy statement as to certain state lands. The following seven categories of trails or areas are hereby established for purposes of this chapter:

(1) Cross-state trails which connect scenic, historical, geological, geographical, or other significant features which are characteristic of the state;

(2) Water-oriented trails which provide a designated path to, on, or along fresh and/or salt water in which the water is the primary point of interest;

(3) Scenic-access trails which give access to quality recreation, scenic, historic or cultural areas of state-wide or national significance;

(4) Urban trails which provide opportunities within an urban setting for walking, bicycling, horseback riding, or other compatible activities. Where appropriate, they will connect parks, scenic areas, historical points, and neighboring communities;

(5) Historical trails which identify and interpret routes which were significant in the historical settlement and development of the state;

(6) ORV vehicle trails which are suitable for use by both four-wheel drive vehicles and two-wheel vehicles. Such trails may be included as a part of the trail systems enumerated in subsections (1), (2), (3) and (5) of this section or may be separately designated;

(7) Off-road and off-trail areas which are suitable for use by both four-wheel drive vehicles and two-wheel vehicles. IAC shall coordinate an inventory and classification of such areas giving consideration to the type of use such areas will receive from persons operating four-wheel drive vehicles and two-wheel vehicles.

The planning and designation of trails shall take into account and give due regard to the interests of federal agencies, state agencies and bodies, counties, municipalities, private landowners and individuals, and interested recreation organizations. It is not required that the above categories be used to designate specific trails, but the IAC will assure that full consideration is given to including trails from all categories within the system. As it relates to all classes of trails and to all types of trail users, it is herein declared as state policy to increase recreational trail access to and within state and federally owned lands and private lands where access may be obtained. It is the intent of the legislature that public recreation facilities be developed as fully as possible to provide greater recreation opportunities for the citizens of the state. The purpose of *this 1972 amendatory act is to increase the availability of trails and areas for off-road vehicles by granting authority to state and local governments to maintain a system of ORV trails and areas, and to fund the program to provide for such development. State lands should be used as fully as possible for all public recreation which is compatible with the income-producing requirements of the various trusts. [1977 1st ex.s. c 220 § 21; 1972 ex.s. c 153 § 1; 1971 ex.s. c 47 § 2; 1970 ex.s. c 76 § 8.]

***Reviser's note:** "this 1972 amendatory act" [1972 ex.s. c 153] consists of the 1972 ex.s. amendments to RCW 4.24.210, 46.09.010-46.09.120, 46.09.150-46.09.170, 46.09.190, 46.10.040, 46.10.070, 46.10.080, 46.10.110, 46.10.120 and 67.32.080, to RCW 46.09.220, 46.09.230, 46.10.185, and to the repeal of RCW 46.09.100.

Severability—1971 ex.s. c 47: See RCW 46.09.900.

Application of chapter—Permission necessary to enter upon private lands: RCW 46.09.010.

Title 68

CEMETERIES, MORGUES AND HUMAN REMAINS

Chapters

68.04	Definitions.
68.05	Cemetery board.
68.08	Human remains.
68.46	Prearrangement contracts.

Chapter 68.04 DEFINITIONS

Sections

68.04.020	"Human remains", "remains" defined.
68.04.030	"Cremated remains"
68.04.110	"Cremation"

68.04.020 "Human remains", "remains" defined. "Human remains" or "remains" means the body of a deceased person, and includes the body in any stage of decomposition except cremated remains. [1977 c 47 § 1; 1943 c 247 § 2; Rem. Supp. 1943 § 3778-2.]

Short title—1943 c 247: "This act shall be known as the 'General Cemetery Act.'" [1943 c 247 § 1.]

Severability—1943 c 247: "If any section, subdivision, sentence or clause of this act shall be held invalid or unconstitutional, such holding shall not affect the validity of the remaining portions of this act." [1943 c 247 § 147.]

The foregoing annotations apply to 1943 c 247, the general cemetery act, codified herein as follows: RCW 68.04.010 through 68.04.240, 68.08.010 through 68.08.030, 68.08.120 through 68.08.220, 68.08.240, 68.20.010 through 68.20.100, 68.24.010 through 68.24.180, 68.28.010 through 68.28.070, 68.32.010 through 68.32.170, 68.36.010 through 68.36.100, 68.40.010 through 68.40.090, 68.44.010 through 68.44.170, and 68.48.040 through 68.48.090.

68.04.030 "Cremated remains". "Cremated remains" means a human body after cremation in a crematory. [1977 c 47 § 2; 1943 c 247 § 3; Rem. Supp. 1943 § 3778-3.]

68.04.110 "Cremation". "Cremation" means the reduction of the body of a deceased person to cremated remains in a crematory in such a manner that the largest dimension of any remaining particle does not exceed five millimeters: *Provided*, That if a person entitled to possession of such remains under the provisions of RCW 68.08.245 is going to place the cremated remains in a cemetery, mausoleum, columbarium, or building devoted exclusively to religious purposes, the five millimeter dimension requirement shall not apply. [1977 c 47 § 3; 1943 c 247 § 11; Rem. Supp. 1943 § 3778-11.]

Chapter 68.05 CEMETERY BOARD

Sections

68.05.040	Cemetery board created—Appointments—Terms.
68.05.050	Qualifications of members.
68.05.180	Annual report of authority—Contents—Verification—Certification.
68.05.230	Regulatory charges—Rate.

68.05.040 Cemetery board created—Appointments—Terms. A cemetery board is created to consist of six members to be appointed by the governor. The first five members shall be appointed within thirty days after June 11, 1953. The terms of the five members first appointed shall expire: One, January 15, 1954; one, January 15, 1955; one, January 15, 1956; and two, January 15, 1957. Thereafter appointments shall be for a four year term. The sixth member shall be appointed within thirty days of *the effective date of this 1977 amendatory act, and shall serve a four year term. [1977 1st ex.s. c 351 § 1; 1953 c 290 § 31.]

***Reviser's note:** "the effective date of this 1977 amendatory act" [1977 1st ex.s. c 351] was September 21, 1977.

Severability—1977 1st ex.s. c 351: "If any provision of this 1977 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." [1977 1st ex.s. c 351 § 7.]

68.05.050 Qualifications of members. Three members of the board shall be persons who have had a minimum of five years experience in this state in the active administrative management of a cemetery corporation or as a member of the board of directors thereof for this period. Two members of the board shall be persons who

have legal, accounting, or other professional experience which relates to the duties of the board. The sixth member of the board shall represent the general public and shall not have a financial interest in the cemetery business. [1977 1st ex.s. c 351 § 2; 1953 c 290 § 32.]

Severability—1977 1st ex.s. c 351: See note following RCW 68.05.040.

68.05.180 Annual report of authority—Contents—Verification—Certification. Each cemetery authority in charge of cemetery endowment care funds shall file with the board annually, on or before the thirtieth day of June, a written report in form prescribed by the board setting forth:

(1) The number of square feet of grave space and the number of crypts and niches sold or disposed of under endowment care:

(a) From June 12, 1943, to the first day of January of the year preceding the filing of this report.

(b) From the first day of January through the thirty-first day of December of the preceding year.

(2) The amount collected and deposited in both the general and special endowment care funds:

(a) Prior to June 12, 1943.

(b) From June 12, 1943, to the first day of January preceding the filing of this report.

(c) From the first day of January through the thirty-first day of December of the preceding year segregated as to the amounts deposited for crypts, niches, and grave space.

(3) A statement showing the total amount of the general and special endowment care funds invested in each of the investments authorized by law and the amount of cash on hand not invested, which statement shall show the actual financial condition of the funds.

(4) A statement showing the information required to be filed pursuant to RCW 68.46.090.

These reports shall be verified by the president or vice president, one other officer of the cemetery authority, the accountant or auditor preparing the same, and a certified public accountant in accordance with generally accepted auditing standards. [1977 1st ex.s. c 351 § 3; 1973 1st ex.s. c 68 § 16; 1953 c 290 § 40.]

Severability—1977 1st ex.s. c 351: See note following RCW 68.05.040.

68.05.230 Regulatory charges—Rate. Every cemetery authority shall pay for each cemetery operated by it, an annual regulatory charge to be fixed by the board, based on the number of interments, entombments, and inurnments made during the preceding full calendar year, but not exceeding one hundred dollars for one hundred or less, two hundred dollars for one hundred one to three hundred fifty, three hundred dollars for three hundred fifty-one to seven hundred, five hundred dollars for seven hundred one or more; plus an additional charge of not more than one dollar per interment, entombment, and inurnment made during the preceding full calendar year, which charges shall be deposited in the cemetery account. Upon payment of said charges and compliance with the provisions of Title 68 RCW and the lawful orders, rules, and regulations of

the board, the board will issue a certificate of authority. [1977 1st ex.s. c 351 § 4; 1969 ex.s. c 99 § 4; 1953 c 290 § 51.]

Severability—1977 1st ex.s. c 351: See note following RCW 68.05.040.

Chapter 68.08 HUMAN REMAINS

Sections

68.08.101	Autopsy, post mortem—Who may authorize.
68.08.105	Autopsies, post mortems—Reports and records confidential—Exceptions.
68.08.245	Possession of cremated remains.

68.08.101 Autopsy, post mortem—Who may authorize. Autopsy or post mortem may be performed in any case where authorization has been given by a member of one of the following classes of persons in the following order of priority:

(1) The surviving spouse;

(2) Any child of the decedent who is eighteen years of age or older;

(3) One of the parents of the decedent;

(4) Any adult brother or sister of the decedent;

(5) A person who was guardian of the decedent at the time of death;

(6) Any other person or agency authorized or under an obligation to dispose of the remains of the decedent. The chief official of any such agency shall designate one or more persons to execute authorizations pursuant to the provisions of this section.

If the person seeking authority to perform an autopsy or post mortem makes reasonable efforts to locate and secure authorization from a competent person in the first or succeeding class and finds no such person available, authorization may be given by any person in the next class, in the order of descending priority. However, no person under this section shall have the power to authorize an autopsy or post mortem if a person of higher priority under this section has refused such authorization: *Provided*, That this section shall not affect autopsies performed pursuant to RCW 68.08.010 or 68.08.103. [1977 c 79 § 1; 1953 c 188 § 11.]

68.08.105 Autopsies, post mortems—Reports and records confidential—Exceptions. Reports and records of autopsies or post mortems shall be confidential, except to the attending physician, the prosecuting attorney or law enforcement agencies having jurisdiction, public health officials, or to the department of labor and industries in cases in which it has an interest under RCW 68.08.103.

The coroner, the medical examiner, or the attending physician shall, upon request, meet with the family of the decedent to discuss the findings of the autopsy or post mortem. For the purposes of this section, the term "family" means the surviving spouse, or any child, parent, brother, or sister of the decedent, or any person who was guardian of the decedent at the time of death. [1977 c 79 § 2; 1953 c 188 § 9.]

68.08.245 Possession of cremated remains. The person or persons determined under RCW 68.08.160 as having authority to order cremation shall be entitled to possession of the cremated remains without further intervention by the state or its political subdivisions. [1977 c 47 § 4.]

Chapter 68.46

PREARRANGEMENT CONTRACTS

Sections

68.46.090 Financial reports—Filing.
68.46.120 Exemptions from chapter.

68.46.090 Financial reports—Filing. Any cemetery authority selling prearrangement merchandise or other prearrangement services shall file in its office or offices and with the cemetery board a written report upon forms prepared by the cemetery board which shall state the amount of the principle of the prearrangement trust fund or funds, the depository of such fund or funds, and cash on hand which is or may be due to such fund as well as such other information the board may deem appropriate. All information appearing on such written reports shall be revised at least annually and shall be verified by the president, the secretary or auditor preparing the same, and a certified public accountant in accordance with generally accepted auditing standards. [1977 1st ex.s. c 351 § 5; 1973 1st ex.s. c 68 § 9.]

Severability—1977 1st ex.s. c 351: See note following RCW 68.05.040.

68.46.120 Exemptions from chapter. The provisions of this chapter do not apply to any of the following: Any religious corporation, church, coroner, religious society or denomination, a corporation sole administering temporalities of any church or religious society or denomination, or any cemetery organized, controlled, and operated by any of them, any county, town, or city cemetery. [1977 1st ex.s. c 351 § 6.]

Severability—1977 1st ex.s. c 351: See note following RCW 68.05.040.

Title 69

FOOD, DRUGS, COSMETICS, AND POISONS

Chapters

69.32 Narcotics—Addiction.
69.41 Legend drugs—Prescription drugs.
69.50 Uniform controlled substances act.

Chapter 69.32

NARCOTICS—ADDICTION

Sections

69.32.030 University of Washington and Washington State University may purchase drugs.

69.32.030 University of Washington and Washington State University may purchase drugs. Nothing herein shall make unlawful or prevent the purchase by the University of Washington and Washington State University or the proper departments thereof, of narcotic drugs and the use thereof for experimental purposes only, when purchased, owned, held, possessed and used in compliance with the acts of congress and the rules and regulations thereunder. [1977 1st ex.s. c 169 § 110; 1959 c 27 § 69.32.030. Prior: 1951 2nd ex.s. c 22 § 23; 1923 c 47 § 3, part; RRS § 2509-3, part.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

Chapter 69.41

LEGEND DRUGS—PRESCRIPTION DRUGS

Sections

69.41.030 Sale, delivery or possession of legend drug without prescription or order prohibited—Exceptions.

SUBSTITUTION OF PRESCRIPTION DRUGS

69.41.100 Legislative recognition and declaration.
69.41.110 Definitions.
69.41.120 Prescriptions to contain instruction as to whether or not a therapeutically equivalent generic drug may be substituted—Form—Contents—Procedure.
69.41.130 Savings in price to be passed on to purchaser.
69.41.140 Minimum manufacturing standards and practices.
69.41.150 Liability of practitioner.
69.41.160 Pharmacy signs as to substitution for prescribed drugs.
69.41.170 Coercion of pharmacist prohibited—Penalty.
69.41.180 Rules.

69.41.030 Sale, delivery or possession of legend drug without prescription or order prohibited—Exceptions. It shall be unlawful for any person to sell, deliver, or possess any legend drug except upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatrist under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces, marine hospital service, or public health service in the discharge of his official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his official duties, a registered nurse under chapter 18.88 RCW when authorized by the board of nursing, or a physician licensed to practice medicine and surgery or a physician licensed to practice osteopathy and surgery in any state or province of Canada which shares a common border with the state of Washington: *Provided, however,* That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his license, or to a common or contract carrier or warehouseman, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment. [1977 c 69 § 1; 1973 1st ex.s. c 186 § 3.]

SUBSTITUTION OF PRESCRIPTION DRUGS**69.41.100 Legislative recognition and declaration.**

The legislature recognizes the responsibility of the state to insure that the citizens of the state are offered the benefit of quality pharmaceutical products at competitive prices. Advances in the drug industry resulting from research and the elimination of counterfeiting of prescription drugs should benefit the users of the drugs. Pharmacy must continue to operate with accountability and effectiveness. The legislature hereby declares it to be the policy of the state that its citizens receive safe and therapeutically effective drug products at the most reasonable cost consistent with high drug quality standards. [1977 1st ex.s. c 352 § 1.]

Severability—1977 1st ex.s. c 352: "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." [1977 1st ex.s. c 352 § 10.] This applies to RCW 69.41.100–69.41.180.

69.41.110 Definitions. As used in RCW 69.41.100 through 69.41.180, the following words shall have the following meanings:

(1) "Brand name" means the proprietary or trade name selected by the manufacturer and placed upon a drug, its container, label, or wrapping at the time of packaging;

(2) "Generic name" means the official title of a drug or drug ingredients published in the latest edition of a nationally recognized pharmacopoeia or formulary;

(3) "Substitute" means to dispense, with the practitioner's authorization, a "therapeutically equivalent" generic drug product, being consistent with basic salt intent, in place of the drug ordered or prescribed;

(4) "Therapeutically equivalent" means essentially the same efficacy and toxicity when administered to an individual in the same dosage regimen; and

(5) "Practitioner" means a physician, osteopath, dentist, veterinarian, or any other person authorized to prescribe drugs under the laws of this state. [1977 1st ex.s. c 352 § 2.]

69.41.120 Prescriptions to contain instruction as to whether or not a therapeutically equivalent generic drug may be substituted—Form—Contents—Procedure. Every drug prescription shall contain an instruction on whether or not a therapeutically equivalent generic drug may be substituted in its place.

If a written prescription is involved, the form shall have two signature lines at opposite ends on the bottom of the form. Under the line at the right side shall be clearly printed the words "DISPENSE AS WRITTEN". Under the line at the left side shall be clearly printed the words "SUBSTITUTION PERMITTED". The practitioner shall communicate the instructions to the pharmacist by signing the appropriate line. No prescription shall be valid without the signature of the practitioner on one of these lines.

If an oral prescription is involved, the practitioner or the practitioner's agent shall instruct the pharmacist as to whether or not a therapeutically equivalent generic drug may be substituted in its place. The pharmacist

shall note the instructions on the file copy of the prescription.

The pharmacist shall note the manufacturer of the drug dispensed on the file copy of a written or oral prescription. [1977 1st ex.s. c 352 § 3.]

69.41.130 Savings in price to be passed on to purchaser. A pharmacist shall not substitute any drug for another drug unless all savings in the retail price of the prescription are passed to the purchaser. The savings shall be equal to the difference in acquisition costs of the prescribed product and the substituted product. [1977 1st ex.s. c 352 § 4.]

69.41.140 Minimum manufacturing standards and practices. A pharmacist may not substitute a product under the provisions of this section unless the manufacturer has shown that the drug has been manufactured with the following minimum good manufacturing standards and practices:

(1) Maintain quality control standards equal to those of the Food and Drug Administration;

(2) Comply with regulations promulgated by the Food and Drug Administration;

(3) Mark products with identification code or monogram;

(4) Label products with expiration date;

(5) Provide reasonable services to accept return goods that have reached their expiration date;

(6) Maintain twenty-four hour resources for product information;

(7) Maintain recall capabilities for unsafe or defective drugs. [1977 1st ex.s. c 352 § 5.]

69.41.150 Liability of practitioner. A practitioner who authorizes a prescribed drug shall not be liable for any side effects or adverse reactions caused by the manner or method by which a substituted drug product is selected or dispensed. [1977 1st ex.s. c 352 § 6.]

69.41.160 Pharmacy signs as to substitution for prescribed drugs. Every pharmacy shall post a sign in a location at the prescription counter that is readily visible to patrons stating, "Under Washington law, an equivalent but less expensive drug may in some cases be substituted for the drug prescribed by your doctor. Such substitution, however, may only be made with the consent of your doctor. Please consult your pharmacist or physician for more information." The printing shall be in block letters no less than one inch in height. [1977 1st ex.s. c 352 § 7.]

69.41.170 Coercion of pharmacist prohibited—Penalty. It shall be unlawful for any employer to coerce, within the meaning of RCW 9A.36.070, any pharmacist to dispense a generic drug or to substitute a generic drug for another drug. A violation of this section shall be punishable as a misdemeanor. [1977 1st ex.s. c 352 § 8.]

69.41.180 Rules. The state board of pharmacy may adopt any necessary rules under chapter 34.04 RCW for the implementation, continuation, or enforcement of

RCW 69.41.100 through 69.41.180, including, but not limited to, a list of nontherapeutically equivalent drugs which, when adopted, shall be provided to all registered pharmacists in the state and shall be updated as necessary. [1977 1st ex.s. c 352 § 9.]

Chapter 69.50

UNIFORM CONTROLLED SUBSTANCES ACT

Sections

ARTICLE III

REGULATION OF MANUFACTURE, DISTRIBUTION AND DISPENSING OF CONTROLLED SUBSTANCES

69.50.310 Sodium pentobarbital—Registration of humane societies and animal control agencies for use in animal control.

ARTICLE V

ENFORCEMENT AND ADMINISTRATIVE PROVISIONS

69.50.505 Seizure and forfeiture.

ARTICLE III

REGULATION OF MANUFACTURE, DISTRIBUTION AND DISPENSING OF CONTROLLED SUBSTANCES

69.50.310 Sodium pentobarbital—Registration of humane societies and animal control agencies for use in animal control. On and after September 21, 1977, a humane society and animal control agency may apply to the state board of pharmacy for registration pursuant to the applicable provisions of this chapter for the sole purpose of being authorized to purchase, possess, and administer sodium pentobarbital to euthanize injured, sick, homeless, or unwanted domestic pets and animals. Any agency so registered shall not permit a person to administer sodium pentobarbital unless such person has demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering this drug.

The board may issue a limited registration to carry out the provisions of this section. The board shall promulgate such rules as it deems necessary to insure strict compliance with the provisions of this section. The board may suspend or revoke registration upon determination that the person administering sodium pentobarbital has not demonstrated adequate knowledge as herein provided. This authority is granted in addition to any other power to suspend or revoke registration as provided by law. [1977 1st ex.s. c 197 § 1.]

ARTICLE V

ENFORCEMENT AND ADMINISTRATIVE PROVISION

69.50.505 Seizure and forfeiture. (a) The following are subject to seizure and forfeiture:

(1) all controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this chapter;

(2) all raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;

(3) all property which is used, or intended for use, as a container for property described in paragraphs (1) or (2);

(4) all conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraphs (1) or (2), but:

(i) no conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

(ii) no conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent;

(iii) a conveyance is not subject to forfeiture for a violation of RCW 69.50.401(c); and,

(iv) a forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(5) all books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter.

(b) Property subject to forfeiture under this chapter may be seized by any board inspector or law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure without process may be made if:

(1) the seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) the property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(3) a board inspector or law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) the board inspector or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(c) In the event of seizure pursuant to subsection (b), proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, of the seizure and intended forfeiture of the seized property. The notice may be served by any method authorized by law or court rule including but not limited to service by certified mail with return

receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.

(d) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (a)(4) of this section within forty-five days of the seizure, the item seized shall be deemed forfeited.

(e) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (a)(4) of this section within forty-five days of the seizure, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the article or articles involved is more than five hundred dollars. A hearing before the seizing agency and any appeal therefrom shall be under chapter 34.04 RCW. In a court hearing between two or more claimants to the article or articles involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorney's fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of items specified in subsection (a)(4) of this section. The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the hearing officer or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (a)(4) of this section.

(f) When property is forfeited under this chapter the board or seizing law enforcement agency may:

(1) retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the provisions of this chapter;

(2) sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs;

(3) request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law; or

(4) forward it to the Bureau for disposition.

(g) Controlled substances listed in Schedule I, II, III, IV and V that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, II, III, IV and V, which are seized or come into the possession of the board, the owners of which are unknown, are contraband and shall be summarily forfeited to the board.

(h) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of

which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the board.

(i) The failure, upon demand by a board inspector or law enforcement officer, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration or proof that he is the holder thereof constitutes authority for the seizure and forfeiture of the plants. [1977 1st ex.s. c 77 § 1; 1971 ex.s. c 308 § 69.50.505.]

Title 70

PUBLIC HEALTH AND SAFETY

Chapters

70.10	Comprehensive community health centers.
70.20	Pesthouses, quarantines, and miscellaneous health precautions.
70.24	Control and treatment of venereal diseases.
70.39	Hospital health care services—Hospital commission.
70.40	Hospital and medical facilities survey and construction act.
70.44	Public hospital districts.
70.48	City and county jails act.
70.54	Miscellaneous health and safety provisions.
70.72	Wiping rags.
70.79	Boilers and unfired pressure vessels.
70.83	Phenylketonuria and other preventable heritable disorders.
70.94	Washington clean air act.
70.95	Solid waste management—Recovery and recycling.
70.95B	Domestic waste treatment plants—Certification and regulation of operators.
70.96A	Uniform alcoholism and intoxication treatment.
70.114	Migrant labor housing.
70.115	Drug injection devices.
70.116	Public water system coordination act of 1977.
70.117	Skiing and commercial ski activity.
70.118	On-site sewage disposal systems.
70.119	Public water supply systems—Certification and regulation of operators.

Chapter 70.10

COMPREHENSIVE COMMUNITY HEALTH CENTERS

Sections

70.10.020	"Comprehensive community health center" defined.
70.10.040	Application for federal or state funds for construction of facility as part of or separate from health center—Processing and approval by administering agencies—Decision on use as part of comprehensive health center.

70.10.050 Application for federal or state funds for construction of facility as part of or separate from health center—Cooperation between agencies in standardizing application procedures and forms.

70.10.020 "Comprehensive community health center" defined. The term "comprehensive community health center" as used in this chapter shall mean a health facility housing community health, mental health, and developmental disabilities services. [1977 1st ex.s. c 80 § 37; 1967 ex.s. c 4 § 2.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

70.10.040 Application for federal or state funds for construction of facility as part of or separate from health center—Processing and approval by administering agencies—Decision on use as part of comprehensive health center. Any application for federal or state funds to be used for construction of the community health, mental health, or developmental disabilities facility, which will be part of the comprehensive community health center as defined in RCW 70.10.020, shall be separately processed and approved by the state agency which has been designated to administer the particular federal or state program involved. Any application for federal or state funds for a construction project to establish a community health, mental health, or developmental disabilities facility not part of a comprehensive health center shall be processed by the state agency which is designated to administer the particular federal or state program involved. This agency shall also forward a copy of the application to the other agency or agencies designated to administer the program or programs providing funds for construction of the facilities which make up a comprehensive health center. The agency or agencies receiving this copy of the application shall have a period of time not to exceed sixty days in which to file a statement with the agency to which the application has been submitted and to any statutory advisory council or committee which has been designated to advise the administering agency with regard to the program, stating that the proposed facility should or should not be part of a comprehensive health center. [1977 1st ex.s. c 80 § 38; 1967 ex.s. c 4 § 4.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

70.10.050 Application for federal or state funds for construction of facility as part of or separate from health center—Cooperation between agencies in standardizing application procedures and forms. The several state agencies processing applications for the construction of comprehensive health centers for community health, mental health, or developmental disability facilities shall cooperate to develop general procedures to be used in implementing the statute and to attempt to develop application forms and procedures which are as nearly standard as possible, after taking cognizance of the different information required in the various programs, to assist applicants in applying to various state agencies. [1977 1st ex.s. c 80 § 39; 1967 ex.s. c 4 § 5.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Chapter 70.20

PESTHOUSES, QUARANTINES, AND MISCELLANEOUS HEALTH PRECAUTIONS

Sections

70.20.140 Repealed.

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

Chapter 70.24

CONTROL AND TREATMENT OF VENEREAL DISEASES

Sections

70.24.120 Venereal disease case investigators—Authority to perform venipuncture or skin puncture.

70.24.120 Venereal disease case investigators—Authority to perform venipuncture or skin puncture. Venereal disease case investigators, upon specific authorization from a doctor, are hereby authorized to perform venipuncture or skin puncture on a person for the sole purpose of withdrawing blood for use in venereal disease tests.

The term "venereal disease case investigator" shall mean only those persons who:

- (1) Are employed by public health authorities; and
- (2) Have been trained by a doctor in proper procedures to be employed when withdrawing blood in accordance with training requirements established by the department of social and health services; and
- (3) Possess a statement signed by the instructing doctor that the training required by subsection (2) of this section has been successfully completed.

The term "doctor" means any person licensed under the provisions of chapters 18.57 or 18.71 RCW. [1977 c 59 § 1.]

Chapter 70.39

HOSPITAL HEALTH CARE SERVICES—HOSPITAL COMMISSION

Sections

70.39.040 Hospital commission—Terms—Vacancies.
70.39.060 Hospital commission—Director—Secretary—Staff—Services.
70.39.130 Report to governor and legislature.
70.39.150 Powers and duties of commission.

70.39.040 Hospital commission—Terms—Vacancies. Members of the commission shall serve for four-year terms: *Provided*, That upon the expiration of the initial four-year terms, two persons shall be appointed for three-year terms and three persons for four-year terms and thereafter all members of the commission shall serve for four-year terms. Appointments shall require senate confirmation. No member shall

serve on the commission for more than two consecutive terms. A vacancy shall be filled by appointment for the remainder of the unexpired term and the initial appointments and vacancies shall not require senate confirmation until the legislature next convenes. [1977 c 36 § 1; 1973 1st ex.s. c 5 § 5.]

70.39.060 Hospital commission—Director—Secretary—Staff—Services. The commission shall appoint a full time executive director and a deputy director and confidential secretary who shall be exempt from the civil service law, chapter 41.06 RCW and who shall perform the duties delegated by the commission. The executive director shall be the chief administrative officer of the commission and shall be subject to its direction.

The commission shall employ such other staff as are necessary to fulfill the responsibilities and duties of the commission, such staff to be subject to the civil service law, chapter 41.06 RCW, and under the supervision of the executive director. In addition, the commission may contract with third parties for services necessary to carry out its activities where this will promote economy, avoid duplication of effort, and make best use of available expertise.

Any such contractor or consultant shall be prohibited from releasing, publishing, or otherwise using any information made available to it under its contractual responsibility, without specific permission of the commission.

The commission may apply for and receive and accept grants, gifts, and other payments, including property and service, from any governmental or other public or private entity or person, and may make arrangements as to the use of these receipts, including the undertaking of special studies and other projects relating to hospital health care costs. [1977 c 35 § 1; 1973 1st ex.s. c 5 § 7.]

70.39.130 Report to governor and legislature. The commission shall prepare and, prior to each legislative session beginning in January, transmit to the governor and to the legislature an annual report of commission operations and activities for the preceding fiscal year. This report shall include such findings and recommendations as the commission deems necessary. [1977 c 75 § 82; 1973 1st ex.s. c 5 § 14.]

70.39.150 Powers and duties of commission. To properly carry out its authority the commission shall:

(1) Compile all relevant financial and accounting data in order to have available the statistical information necessary to properly conduct rate review and approval. Such data shall include necessary operating expenses, appropriate expenses incurred for rendering services to patients who cannot or do not pay, all properly incurred interest charges, and reasonable depreciation expenses based on the expected useful life of the property and equipment involved. The commission shall define and prescribe by rule and regulation the types and classes of charges which cannot be changed except as provided by the procedure contained in RCW 70.39.160 and it shall also obtain from each such hospital a current rate

schedule as well as any subsequent amendments or modifications of that schedule as it may require.

(2) Permit any nonprofit hospital subject to the provisions of this chapter to charge reasonable rates which will permit the hospital to render effective and efficient service in the public interest and on a solvent basis.

(3) Permit any proprietary profit-making hospital subject to the provisions of this chapter to charge reasonable rates which will permit the hospital to render effective and efficient service in the public interest and which includes an allowance for a fair return to stockholders based upon actual investment or, if the hospital elects, upon the fair value of the investment on the effective date of this section: *Provided*, That once the election is made it may not be changed without the approval of the commission.

(4) Take into account, in the determination of reasonable rates under this section for each hospital, the recommendations of appropriate area-wide and state comprehensive health planning agencies to ensure compliance with Washington comprehensive health planning law, chapter 70.38 RCW.

(5) Permit, in considering a request for change in or initiating a review of rate schedules or other charges, any hospital subject to the provisions of this chapter to charge rates which will in the aggregate produce sufficient total revenue for the hospital to meet all of the reasonable obligations specified in this chapter. [1977 1st ex.s. c 154 § 1; 1973 1st ex.s. c 5 § 16.]

Reviser's note: The effective date of 1977 1st ex.s. c 154 § 1 was September 21, 1977 (midnight September 20); see preface 1977 session laws.

Chapter 70.40

HOSPITAL AND MEDICAL FACILITIES SURVEY AND CONSTRUCTION ACT

Sections

70.40.040 General duties of the director.

70.40.040 General duties of the director. In carrying out the purposes of the chapter the director is authorized and directed:

(1) To require such reports, make such inspections and investigations and prescribe such regulations as he deems necessary;

(2) To provide such methods of administration, appoint a head and other personnel of the section and take such other action as may be necessary to comply with the requirements of the federal act and the regulations thereunder;

(3) To procure in his discretion the temporary or intermittent services of experts or consultants or organizations thereof, by contract, when such services are to be performed on a part time or fee for service basis and do not involve the performance of administrative duties;

(4) To the extent that he considers desirable to effectuate the purposes of this chapter, to enter into agreements for the utilization of the facilities and services of other departments, agencies, and institutions public or private;

(5) To accept on behalf of the state and to deposit with the state treasurer, any grant, gift, or contribution made to assist in meeting the cost of carrying out the purposes of this chapter, and to expend the same for such purpose; and

(6) To make an annual report to the governor on activities pursuant to this chapter, including recommendations for such additional legislation as the director considers appropriate to furnish adequate hospital and medical facilities to the people of this state. [1977 c 75 § 83; 1959 c 252 § 4; 1949 c 197 § 4; Rem. Supp. 1949 § 6090-63.]

Chapter 70.44

PUBLIC HOSPITAL DISTRICTS

Sections

70.44.060 Powers and duties.

70.44.060 Powers and duties. All public hospital districts organized under the provisions of this chapter shall have power:

(1) To make a survey of existing hospital and other health care facilities within and without such district.

(2) To construct, condemn and purchase, purchase, acquire, lease, add to, maintain, operate, develop and regulate, sell and convey all lands, property, property rights, equipment, hospital and other health care facilities and systems for the maintenance of hospitals, buildings, structures, and any and all other facilities, and to exercise the right of eminent domain to effectuate the foregoing purposes or for the acquisition and damaging of the same or property of any kind appurtenant thereto, and such right of eminent domain shall be exercised and instituted pursuant to a resolution of the commission and conducted in the same manner and by the same procedure as in or may be provided by law for the exercise of the power of eminent domain by incorporated cities and towns of the state of Washington in the acquisition of property rights: *Provided*, That no public hospital district shall have the right of eminent domain and the power of condemnation against any health care facility: *And provided, further*, That no hospital district organized and existing in districts having more than twenty-five thousand population have any of the rights herein enumerated without the prior written consent of all existing hospital facilities within the boundaries of such hospital district.

(3) To lease existing hospital and other health care facilities and equipment and/or other property used in connection therewith, including ambulances, and to pay such rental therefor as the commissioners shall deem proper; to provide hospital and other health care services for residents of said district by facilities located outside the boundaries of said district, by contract or in any other manner said commissioners may deem expedient or necessary under the existing conditions; and said hospital district shall have the power to contract with other communities, corporations, or individuals for the services provided by said hospital district; and they may further receive in said hospitals and other health care facilities

and furnish proper and adequate services to all persons not residents of said district at such reasonable and fair compensation as may be considered proper: *Provided*, That it must at all times make adequate provision for the needs of the district and residents of said district shall have prior rights to the available hospital and other health care facilities of said district, at rates set by the district commissioners.

(4) For the purpose aforesaid, it shall be lawful for any district so organized to take, condemn and purchase, lease, or acquire, any and all property, and property rights, including state and county lands, for any of the purposes aforesaid, and any and all other facilities necessary or convenient, and in connection with the construction, maintenance, and operation of any such hospitals and other health care facilities, subject, however, to the applicable limitations provided in subsection (2).

(5) To contract indebtedness or borrow money for corporate purposes on the credit of the corporation or the revenues of the hospitals thereof, and the revenues of any other facilities or services that the district is or hereafter may be authorized by law to provide, and to issue (a) revenue bonds or warrants therefor payable solely out of a special fund or funds into which the district may pledge such amount of the revenues of the hospitals thereof, and the revenues of any other facilities or services that the district is or hereafter may be authorized by law to provide, to pay the same as the commissioners of the district may determine, such revenue bonds or warrants to be issued in the same manner and subject to the same provisions as provided for the issuance of revenue bonds or warrants by cities or towns under the Municipal Revenue Bond Act, chapter 35.41 RCW, as may hereafter be amended or (b) general obligation bonds therefor in the manner and form as provided in RCW 70.44.110 to 70.44.130, inclusive, as may hereafter be amended; and to assign or sell hospital accounts receivable, and accounts receivable for the use of other facilities or services that the district is or hereafter may be authorized by law to provide, for collection with or without recourse.

(6) To raise revenue by the levy of an annual tax on all taxable property within such public hospital district not to exceed seventy-five cents per thousand dollars of assessed value or such further amount as has been or shall be authorized by a vote of the people: *Provided further*, That the public hospital districts are hereby authorized to levy such a general tax in excess of said seventy-five cents per thousand dollars of assessed value when authorized so to do at a special election conducted in accordance with and subject to all of the requirements of the Constitution and the laws of the state of Washington now in force or hereafter enacted governing the limitation of tax levies. The said board of district commissioners is hereby authorized and empowered to call a special election for the purpose of submitting to the qualified voters of the hospital district a proposition to levy a tax in excess of the seventy-five cents per thousand dollars of assessed value herein specifically authorized. The superintendent shall prepare a proposed budget of the contemplated financial transactions for the

ensuing year and file the same in the records of the commission on or before the first Monday in September. Notice of the filing of said proposed budget and the date and place of hearing on the same shall be published for at least two consecutive weeks in a newspaper printed and of general circulation in said county. On the first Monday in October the commission shall hold a public hearing on said proposed budget at which any taxpayer may appear and be heard against the whole or any part of the proposed budget. Upon the conclusion of said hearing, the commission shall, by resolution, adopt the budget as finally determined and fix the final amount of expenditures for the ensuing year. Taxes levied by the commission shall be certified to and collected by the proper county officer of the county in which such public hospital district is located in the same manner as is or may be provided by law for the certification and collection of port district taxes. The commission is authorized, prior to the receipt of taxes raised by levy, to borrow money or issue warrants of the district in anticipation of the revenue to be derived by such district from the levy of taxes for the purpose of such district, and such warrants shall be redeemed from the first money available from such taxes when collected, and such warrants shall not exceed the anticipated revenues of one year, and shall bear interest at a rate or rates as authorized by the commission.

(7) To enter into any contract with the United States government or any state, municipality, or other hospital district, or any department of those governing bodies, for carrying out any of the powers authorized by this chapter.

(8) To sue and be sued in any court of competent jurisdiction: *Provided*, That all suits against the public hospital district shall be brought in the county in which the public hospital district is located.

(9) To pay actual necessary travel expenses and living expenses incurred while in travel status for (a) qualified physicians who are candidates for medical staff positions, and (b) other qualified persons who are candidates for superintendent or other managerial and technical positions, when the district finds that hospitals or other health care facilities owned and operated by it are not adequately staffed and determines that personal interviews with said candidates to be held in the district are necessary or desirable for the adequate staffing of said facilities.

(10) To make contracts, employ superintendents, attorneys, and other technical or professional assistants and all other employees; to make contracts with private or public institutions for employee retirement programs; to print and publish information or literature; and to do all other things necessary to carry out the provisions of this chapter. [1977 1st ex.s. c 211 § 1; 1974 ex.s. c 165 § 2; 1973 1st ex.s. c 195 § 83; 1971 ex.s. c 218 § 2; 1970 ex.s. c 56 § 85; 1969 ex.s. c 65 § 1; 1967 c 164 § 7; 1965 c 157 § 2; 1949 c 197 § 18; 1945 c 264 § 6; Rem. Supp. 1949 § 6090-35.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Purpose—1970 ex.s. c 56: See note following RCW 39.44.030.

Purpose—Severability—1967 c 164: See notes following RCW 4.96.010.

Eminent domain: State Constitution Art. 1 § 16 (Amendment 9).

Eminent domain by cities: Chapter 8.12 RCW.

Limitation on levies: State Constitution Art. 7 § 2 (Amendments 55 and 59); RCW 84.52.050.

Port districts, collection of taxes: RCW 53.36.020.

Tortious conduct of political subdivisions, municipal corporations and quasi municipal corporations, liability for damages: Chapter 4.96 RCW.

Chapter 70.48

CITY AND COUNTY JAILS ACT

Sections

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70.48.010 Legislative declaration. It is the policy of this state that all city and county jails provide a humane and safe environment. It is the purpose of this chapter (1) to require classification of county and city jails on the basis of their purpose and their function in order to provide for (a) the setting of state-wide mandatory custodial care standards that are essential for the health, welfare, and security of persons confined in jails, (b) advisory custodial care minimum standards, and (c) physical plant minimum standards, (2) to aid the Washington state criminal justice training commission in developing and implementing personnel training and qualification standards, and (3) to provide for a determination of the role of the state and local units of government with regard to the custody of persons who are arrested for and/or convicted of violating statutes or ordinances which define crimes. The legislature also finds that in order to accomplish the purpose of this chapter it is necessary for the state to provide adequate funds to enable units of local government to fully comply with the physical plant minimum standards for detention and correctional facilities. [1977 1st ex.s. c 316 § 1.]

Severability—1977 1st ex.s. c 316: "If any provision of this 1977 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." [1977 1st ex.s. c 316 § 26.]

The foregoing annotation applies to chapter 70.48 RCW and the 1977 amendments to RCW 35.21.330, 35.22.280, 35.23.440, 35.24.160, 35.24.290, 35.27.240, and 35.27.370.

70.48.020 Definitions. As used in this chapter the words and phrases in this section shall have the meanings indicated unless the context clearly requires otherwise.

(1) "Holding facility" means a facility operated by a governing unit primarily designed, staffed, and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the temporary housing of such persons during or after trial and/or sentencing, but in no instance shall the housing exceed thirty days.

(2) "Detention facility" means a facility operated by a governing unit primarily designed, staffed, and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the housing of adult persons for purposes of punishment and correction after sentencing or persons serving terms not to exceed ninety days.

(3) "Correctional facility" means a facility operated by a governing unit primarily designed, staffed, and used for the housing of adult persons serving terms not exceeding one year for the purposes of punishment, correction, and rehabilitation following conviction of a criminal offense.

(4) "Jail" means any holding, detention, or correctional facility as defined in this section.

(5) "Health care" means preventive, diagnostic and rehabilitative services provided by licensed health care professionals and/or facilities; such care to include providing prescription drugs where indicated.

(6) "Commission" means the state jail commission created pursuant to RCW 70.48.030.

(7) "Substantially remodeled" means significant alterations made to the physical plant of a jail to conform with the physical plant standards.

(8) "Department" means the department of social and health services.

(9) "Secretary" means the secretary of social and health services.

(10) "Governing unit" means the city and/or county or any combinations of cities and/or counties responsible for the operation, supervision, and maintenance of a jail.

(11) "Mandatory custodial care standards" means those minimum standards, rules, or regulations that are adopted pursuant to RCW 70.48.050(1)(a) and 70.48.070(1) for jails to meet federal and state constitutional requirements relating to the health, safety, security, and welfare of inmates.

(12) "Advisory custodial care standards" means custodial care standards recommended by the commission which are not mandatory.

(13) "Physical plant standards" and "physical plant requirements" mean those minimum standards, rules, or

regulations that are prescribed by the commission for jails that relate to structural specifications of the physical plant, including but not limited to size of cells and rooms within a jail, design of facilities, and specifications for fixtures and other equipment.

(14) "Jail inspector" means a person with at least five years in a supervisory position as a law enforcement or custodial corrections officer. [1977 1st ex.s. c 316 § 2.]

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

70.48.030 State jail commission—Created—Composition—Qualifications—Vacancies—Meetings—Termination.

A state jail commission shall be appointed by the governor to establish standards approved by the legislature for the operation of city and county jails. The commission shall be comprised of eleven members who shall be appointed by the governor and confirmed by the state senate: *Provided*, That at least seven of the members shall be elected city, town, or county legislative or executive officials: *Provided further*, That the secretary or the secretary's designee shall be one of the members of the commission.

At least two members of the commission shall represent minorities.

At least four members of the commission shall reside east of the crest of the Cascade Range. Any member of the commission appointed pursuant to this section as an incumbent official shall immediately, upon termination of holding said office, cease to be a member of the commission and the governor shall appoint a replacement. Vacancies shall be filled in the same manner as original appointments: *Provided*, That a person appointed as a replacement shall serve for only the balance of the replaced member's term unless the replacement is reappointed.

Three of the original appointments shall be for terms of one year, four of the initial appointments shall be for terms of two years, and four of the initial appointments shall be for terms of three years. Subsequent appointments shall be for a three year term.

The chairperson of the commission shall be appointed by the governor and shall serve as chairperson at the governor's pleasure. A vice-chairperson shall be elected by the commission. The commission shall meet on call of the chairperson or on request of a majority of its members, but not less than four times per year. This commission shall be terminated on June 30, 1983, unless this date is revised by the legislature. [1977 1st ex.s. c 316 § 3.]

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

70.48.040 Commission members—Travel expenses—Reimbursement. Members of the commission shall be entitled to reimbursement for travel expenses incurred in the performance of their duties pursuant to RCW 43.03.050 and 43.03.060. [1977 1st ex.s. c 316 § 4.]

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

70.48.050 Commission—Powers and duties. In addition to any other powers and duties contained in this chapter, the commission shall have the powers and duties:

(1) To adopt such rules and regulations, after approval by the legislature, pursuant to chapter 34.04 RCW, as it deems necessary and consistent with the purposes and intent of this chapter on the following subjects:

(a) Mandatory custodial care standards that are essential for the health, welfare, and security of persons confined in jails: *Provided*, That in adopting each rule or regulation pertaining to mandatory custodial care standards, the commission shall cite the applicable case law, statutory law or constitutional provision which requires such rule or regulation;

(b) Advisory custodial care standards;

(c) The classification and uses of holding, detention, and correctional facilities. Except for the housing of work releasees in accordance with commission rules, a person may not be held in a holding facility longer than seventy-two hours, exclusive of weekends and holidays, without being transferred to a detention or correction facility unless the court having jurisdiction over the individual authorizes a longer holding, but in no instance shall the holding exceed thirty days;

(d) The content of jail records which shall be maintained by the department of corrections or the chief law enforcement officer of the governing unit. In addition the governing unit, chief law enforcement officer, or department of corrections may require such additional records as they deem proper; and

(e) The segregation of persons and classes of persons confined in holding, detention, and correctional facilities;

(2) To investigate, develop, and encourage alternative and innovative methods in all phases of jail operation;

(3) To make comments, reports, and recommendations concerning all phases of jail operation including those not specifically described in this chapter;

(4) To hire necessary staff, acquire office space, supplies, and equipment, and make such other expenditures as may be deemed necessary to carry out its duties;

(5) The secretary shall submit minimum physical plant standards to the commission for review and promulgate proposed standards pursuant to chapter 34.04 RCW. After such promulgation, the standards shall be presented for review at a public conference of city, town, and county legislative and executive officials and directors of departments of correction or the chief law enforcement officers of the governing units in four regional meetings, two of which shall be east of the Cascade range. Subsequent to these reviews, and utilizing the data received, the commission shall adopt minimum physical plant standards pursuant to chapter 34.04 RCW, after approval by the legislature;

(6) To cause all jails to be inspected at least annually by designated jail inspectors and to issue a certificate of compliance to each facility which is found to satisfactorily meet the requirements of this chapter and the rules, regulations, and standards adopted hereunder: *Provided*, That certificates of partial compliance may be issued where applicable. The inspectors shall have access to all

portions of jails, to all prisoners confined therein, and to all records maintained by said jails; and

(7) To establish advisory guidelines and model ordinances to assist governing units in establishing the agreements necessary for the joint operation of jails and for the determination of the rates of allowance for the daily costs of holding a prisoner pursuant to the provisions of RCW 70.48.080(6). [1977 1st ex.s. c 316 § 5.]

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

70.48.060 Capital construction—Financial assistance—Oversight—Cost estimates. (1) As a condition of eligibility for such financial assistance as may be provided by or through the state of Washington exclusively for the construction and/or modernization of jails, all jail construction and/or substantial remodeling projects shall be submitted by the governing unit to the commission for review. The commission shall submit the projects to the office of program planning and fiscal management, pursuant to subsection (3) of this section, if they comply with the physical plant standards adopted by the commission, pursuant to the provisions of RCW 70.48.050(5). Notice of rejection because of noncompliance to said standards shall be given within forty-five days after receipt by the commission of the submitted project.

(2) If the projects are approved, the department shall oversee the construction and remodeling to the extent necessary to assure compliance with the standards adopted and approved pursuant to RCW 70.48.050(7).

(3) The commission shall develop estimates of the costs of the capital construction grants for each biennium required under the provisions of this chapter. The estimates shall be subject to the review of the secretary and shall be submitted to the office of program planning and fiscal management consistent with the provisions of chapter 43.88 RCW. [1977 1st ex.s. c 316 § 6.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

70.48.070 Jails—Compliance with chapter, rules, regulations and standards enjoined. All jails shall be constructed, operated, and maintained in compliance with the provisions and intent of this chapter and the rules, regulations, and standards adopted thereunder: *Provided*, That, as limited by this section, compliance with such rules, regulations, and standards shall be pursuant to the time schedules set by the commission for classes of facilities:

(1) The mandatory custodial care standards that are essential for the health, welfare, and security of persons confined, which are adopted pursuant to RCW 70.48.050(1)(a), shall be proposed by the commission to the legislature no later than December 31, 1978. If the legislature fails to adopt or modify such standards by April 1, 1979, they shall take effect on July 1, 1979 without legislative approval and shall be complied with no later than October 1, 1979. Subsequent standards

shall be prescribed by the commission and submitted to the legislative budget committee for review. If the legislative budget committee disapproves such standards, they shall not have effect;

(2) The physical plant standards which are adopted and approved pursuant to RCW 70.48.050(5) shall not be mandatory unless, pursuant to the provisions of RCW 70.48.110, the state fully funds the cost of implementing such standards for detention and correctional facilities: *Provided*, That, such funds shall be subject to biennial appropriation: *Provided further*, That after such funds are made available, local jurisdictions shall have a period of time before such standards are mandatory that is adequate to effect any needed construction or repairs: *Provided further*, That those provisions of RCW 70.48.060 and 70.48.110 requiring approval prior to funding and commencement of construction or remodeling shall not apply to prevent the funding of jails of governing units which have appropriated funds for substantial remodeling or construction of jails after February 16, 1974, and before June 23, 1977. Approval in such cases may be given retroactively. [1977 1st ex.s. c 316 § 7.]

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

70.48.080 Closure of jails not meeting standards—Procedure—Transfer of prisoners. All jails which do not meet the appropriate mandatory custodial care standards and physical plant standards may be required to be closed, entirely or in part, until such requirements are met, pursuant to the following procedures:

(1) In the event the commission finds a jail does not comply with the appropriate mandatory custodial care and/or physical plant standards, notice shall be given to the governing unit which shall be either a notice of non-compliance, a notice of conditional compliance for the continued operation of the jail under such restrictions as the commission determines to be appropriate, or a notice of full or partial closure.

(2) Such notices shall specify the manner in which the jail does not comply with the standards. In issuing such notices consideration shall be given to the magnitude and seriousness of the deficiencies and their potential effect on the health and safety of jail inmates, the cost of correction, and other information deemed relevant by the commission.

(3) (a) If the commission issues a notice of non-compliance, it shall specify in the notice the time limits within which the standards are to be met.

(b) If the commission determines that there will be compliance with the standards provided that certain conditions or restrictions which the commission determines to be appropriate are applied, the commission may issue a notice of conditional compliance setting out the conditions and restrictions which the commission determines to be appropriate. A certificate of conditional compliance may be issued thereon.

(c) In those cases where the nature and extent of the deficiencies are such that a notice of immediate full or

partial closure is deemed necessary by the commission in order to preserve the health and safety of persons in the jail, a notice of immediate full or partial closure may be issued by the commission.

(4) Within thirty days after the date of receipt of a notice of noncompliance, a notice of conditional compliance, or a notice of full or partial closure, the appropriate governing unit may request a review thereof by the commission which review shall be heard not more than forty-five days following such request unless such period is extended not more than another forty-five days by order of the commission. All reviews conducted under this section shall be deemed to be "contested cases" within the meaning of chapter 34.04 RCW.

The commission shall hear and decide the review, and the decision of the commission may be appealed to the superior court as provided in chapter 34.04 RCW.

(5) If a notice of full or partial closure is issued and upheld, or if a notice of conditional compliance is issued and the conditions or restrictions are not complied with, or if a notice of noncompliance is issued and upheld and compliance is not satisfactorily accomplished within the time prescribed in the notice, the attorney general, upon request and on behalf of the commission, shall apply to the superior court of the county in which the jail is located for an order of closure of all or part of the jail and the court shall have authority to issue such order of closure or prescribe other appropriate relief.

(6) In the event an order of closure is issued by the superior court, all confined persons in custody in the jail or portions thereof ordered closed shall be transferred, provided sufficient space is available, to a suitable, available jail, and the transferring governing unit shall pay for the costs of board, room, program, and administration of such transferred persons, pursuant to the rate for such costs established by the governing unit accepting such confined persons. If a transferring governing unit disputes the rates established by the governing unit accepting, the commission shall set the rates. [1977 1st ex.s. c 316 § 8.]

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

70.48.090 Responsibility for operation of jail—Departments of corrections authorized. (1) A city or county primarily responsible for the operation of a jail or jails may create a department of corrections to be in charge of such jail and of all persons confined therein by law, subject to the authority of the governing unit. If such department is created, it shall have charge of jails and persons confined therein. If no such department of corrections is created, the chief law enforcement officer of the city or county primarily responsible for the operation of said jail shall have charge of the jail and of all persons confined therein. A department of corrections or the chief law enforcement officer shall operate a jail in conformance with the rules and regulations adopted by the commission and any rules, regulations, or ordinances adopted by the governing unit.

(2) Whenever any jail is operated by a governing unit which includes a combination of cities and/or counties,

one such city or county shall be designated as being primarily responsible for the operation of said jail. [1977 1st ex.s. c 316 § 9.]

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

70.48.100 Jail register—Required—Contents—Confidentiality of records. (1) A department of corrections or chief law enforcement officer responsible for the operation of a jail shall maintain a jail register, open to the public, into which shall be entered in a timely basis:

(a) The name of each person confined in the jail with the hour, date and cause of the confinement; and

(b) The hour, date and manner of each person's discharge.

(2) The records of a person confined in jail shall be held in confidence and shall be made available only to criminal justice agencies as defined in RCW 43.43.705; or

(a) For use in inspections made pursuant to RCW 70.48.070;

(b) In jail certification proceedings;

(c) For use in court proceedings upon the written order of the court in which the proceedings are conducted; or

(d) Upon the written permission of the person. [1977 1st ex.s. c 316 § 10.]

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

70.48.110 Costs of new construction or remodeling—Approval—Conditions—Commission's duties—Payments. Upon obtaining approval for the substantial remodeling or construction of a jail pursuant to RCW 70.48.060 and biennial appropriation of the legislature, a governing unit shall receive full funding from the state for the costs of the necessary new construction or improvements to or remodeling of existing detention or correctional facilities necessary to comply with the standards established pursuant to this chapter. The commission shall biennially establish for each application the level of costs necessary to comply with the physical plant standards and shall authorize payment by the state treasurer of the designated amount from the local jail improvement and construction account created in RCW 70.48.120 to the eligible governing unit in accordance with procedures established by the commission. [1977 1st ex.s. c 316 § 11.]

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

70.48.120 Local jail improvement and construction account. There is hereby established in the state treasury a fund to be known as the local jail improvement and construction account in which shall be deposited such sums as are appropriated by law for the purpose of providing funds to units of local government for new construction and the substantial remodeling of detention and correctional facilities so as to obtain compliance with the physical plant standards for such facilities. Funds in the local jail improvement and construction

account shall be invested in the same manner as other funds in other accounts within the state treasury, and such earnings shall accrue to the local jail improvement and construction account. Funds in this account shall be disbursed by the state treasurer to units of local government, subject to biennial legislative appropriation, at the direction of the commission. [1977 1st ex.s. c 316 § 12.]

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

70.48.130 Emergency or necessary health care for confined persons—Reimbursement procedures—Conditions—Limitations. Payment for emergency or necessary health care shall be by the governing unit, except that the department shall reimburse the governing unit for the cost thereof if the confined person requires treatment for which such person is eligible under the department's public assistance medical program.

The governing unit may obtain reimbursement from the confined person for the cost of emergency and other health care to the extent that such person is reasonably able to pay for such care, including reimbursement from any insurance program or from other medical benefit programs available to such person. To the extent that a confined person is unable to be financially responsible for medical care and is ineligible for financial assistance from the department or from a private source, the governing unit may obtain reimbursement for the cost of such services from the unit of government whose law enforcement officers initiated the charges on which the person is being held in the jail: *Provided*, That reimbursement for the cost of such services shall be by the state for state prisoners being held in a jail who are accused of either escaping from a state facility or of committing an offense in a state facility.

There shall be no right of reimbursement to the governing unit from units of government whose law enforcement officers initiated the charges for which a person is being held in the jail for care provided after the charges are disposed of by sentencing or otherwise, unless by intergovernmental agreement pursuant to chapter 39.34 RCW.

This section is not intended to limit or change any existing right of any party, governing unit, or unit of government against the person receiving the care for the cost of the care provided or paid for.

Under no circumstance shall necessary medical services be denied or delayed pending a determination of financial responsibility. [1977 1st ex.s. c 316 § 13.]

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

70.48.140 Confinement pursuant to authority of the United States. A person having charge of a jail shall receive and keep in such jail, when room is available, all persons confined or committed thereto by process or order issued under authority of the United States until discharged according to law, the same as if such persons had been committed under process issued under authority of the state, if provision is made by the United States for the support of such persons confined, and for any

additional personnel required. [1977 1st ex.s. c 316 § 14.]

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

70.48.150 Temporary committee—Created—Membership—Duties—Report to legislature. (1) It is the intent of the legislature that the temporary committee that is created pursuant to subsection (2) of this section shall avoid custodial facility and program duplication between the state and units of local government, and between the various units of local government. It is also the intent of the legislature to effectuate economies of scale and effective management of and care for persons who are confined in local jails and state custodial facilities.

(2) The following persons shall constitute a temporary committee which shall hold hearings and draft a proposal which prescribes the specific role of the state and local units of government, and the nature of any custodial facilities operated by the state and local units of government, with regard to the custody of persons who are arrested for, and/or convicted of violating statutes or ordinances which define crimes:

(a) Three members of the commission who are local elected officials, and who are appointed to such committee by the chairperson of the commission;

(b) Three representatives of the department, who are appointed by the secretary; and

(c) One member of the senate and one member of the house of representatives who are appointed by the governor.

(3) This temporary committee shall present such proposals to the commission and to the legislature on or before December 15, 1978, and shall dissolve ninety days after the presentation of such proposal. [1977 1st ex.s. c 316 § 15.]

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

70.48.160 Post-approval limitation on funding. Having received approval pursuant to RCW 70.48.060:

(1) A governing unit shall not be eligible for further funding for physical plant standards for a period of ten years from the date of the completion of the said approved project; and

(2) A jail shall not be closed for noncompliance to physical plant standards within this same ten year period.

However, this section shall not apply if there is destruction of the facility because of an act of God or the result of a negligent and/or criminal act. [1977 1st ex.s. c 316 § 16.]

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

70.48.170 Short title. This chapter shall be known and may be cited as the City and County Jails Act. [1977 1st ex.s. c 316 § 17.]

Severability—1977 1st ex.s. c 316: See note following RCW 70.48.010.

Chapter 70.54

MISCELLANEOUS HEALTH AND SAFETY PROVISIONS

Sections

70.54.130	Laetrile—Legislative declaration.
70.54.140	Laetrile—Interference with physician/patient relationship by health facility—Board of pharmacy, duties.
70.54.150	Physicians not subject to disciplinary action for prescribing or administering laetrile—Conditions.
70.54.160	Public restrooms—Pay facilities.
70.54.170	Penalty for violation of RCW 70.54.160.

70.54.130 Laetrile—Legislative declaration. It is the intent of the legislature that passage of RCW 70.54.130 through 70.54.150 shall not constitute any endorsement whatever of the efficacy of amygdalin (Laetrile) in the treatment of cancer, but represents only the legislature's endorsement of a patient's freedom of choice, so long as the patient has been given sufficient information in writing to make an informed decision regarding his/her treatment and the substance is not proven to be directly detrimental to health. [1977 1st ex.s. c 122 § 1.]

70.54.140 Laetrile—Interference with physician/patient relationship by health facility—Board of pharmacy, duties. No hospital or health facility may interfere with the physician/patient relationship by restricting or forbidding the use of amygdalin (Laetrile) when prescribed or administered by a physician licensed pursuant to chapter 18.57 or 18.71 RCW and requested by a patient under his/her care who has requested the substance after having been given sufficient information in writing to make an informed decision.

For the purposes of RCW 70.54.130 through 70.54.150, the state board of pharmacy shall provide for the certification as to the identity of amygdalin (Laetrile) by random sample testing or other testing procedures, and shall promulgate rules and regulations necessary to implement and enforce its authority under this section. [1977 1st ex.s. c 122 § 2.]

70.54.150 Physicians not subject to disciplinary action for prescribing or administering laetrile—Conditions. No physician may be subject to disciplinary action by any entity of either the state of Washington or a professional association for prescribing or administering amygdalin (Laetrile) to a patient under his/her care who has requested the substance after having been given sufficient information in writing to make an informed decision.

It is not the intent of this section to shield a physician from acts or omissions which otherwise would constitute unprofessional conduct as defined in RCW 18.57.170 and 18.72.030. [1977 1st ex.s. c 122 § 3.]

70.54.160 Public restrooms—Pay facilities. (1) Every establishment which maintains restrooms for use by the public shall not discriminate in charges required between facilities used by men and facilities used by women.

(2) When coin lock controls are used, the controls shall be so allocated as to allow for a proportionate equality of free toilet units available to women as compared with those units available to men, and at least one-half of the units in any restroom shall be free of charge. As used in this section, toilet units are defined as constituting commodes and urinals.

(3) In situations involving coin locks placed on restroom entry doors, admission keys shall be readily provided without charge when requested, and notice as to the availability of the keys shall be posted on the restroom entry door. [1977 1st ex.s. c 97 § 1.]

70.54.170 Penalty for violation of RCW 70.54.160.

Any owner, agent, manager, or other person charged with the responsibility of the operation of an establishment who operates such establishment in violation of RCW 70.54.160 shall be guilty of a misdemeanor. [1977 1st ex.s. c 97 § 2.]

Chapter 70.72 WIPING RAGS

Sections

70.72.010 through 70.72.090 Repealed.

70.72.010 through 70.72.090 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 70.79

BOILERS AND UNFIRED PRESSURE VESSELS

Sections

70.79.290	Inspection certificate—Contents—Posting— Fee.
70.79.330	Inspection fees—Expenses—Schedules.
70.79.350	Inspection fees—Receipts for—Pressure systems safety fund.

70.79.290 Inspection certificate—Contents—Posting—Fee. If, upon inspection, a boiler or pressure vessel is found to comply with the rules and regulations of the board, and upon the appropriate fee payment made directly to the chief inspector, as required by RCW 70.79.160 or 70.79.330, the chief inspector shall issue to the owner or user of such a boiler or pressure vessel an inspection certificate bearing the date of inspection and specifying the maximum pressure under which the boiler or pressure vessel may be operated. Such inspection certificate shall be valid for not more than fourteen months from its date in the case of power boilers and twenty-six months in the case of low pressure heating boilers, and for not more than two months longer than the authorized inspection period in the case of pressure vessels. Certificates shall be posted under glass in the room containing the boiler or pressure vessel inspected. If the boiler or pressure vessel is not located within a building, the certificate shall be posted in a location convenient to the boiler or pressure vessel inspected or, in the case of a portable boiler or pressure

vessel, the certificate shall be kept in a protective container to be fastened to the boiler or pressure vessel or in a tool box accompanying the boiler or pressure vessel. [1977 1st ex.s. c 175 § 1; 1970 ex.s. c 21 § 1; 1951 c 32 § 28.]

70.79.330 Inspection fees—Expenses—Schedules. The owner or user of a boiler or pressure vessel required by this chapter to be inspected by the chief inspector, or his deputy inspector, shall pay directly to the chief inspector, upon completion of inspection, fees and expenses in accordance with a schedule adopted by the board and approved by the director of the department of labor and industries in accordance with the requirements of the Administrative Procedure Act, chapter 34.04 RCW. [1977 1st ex.s. c 175 § 2; 1970 ex.s. c 21 § 2; 1963 c 217 § 1; 1951 c 32 § 32.]

70.79.350 Inspection fees—Receipts for—Pressure systems safety fund. The chief inspector shall give an official receipt for all fees required by chapter 70.79 RCW and shall transfer all sums so received to the treasurer of the state of Washington as ex officio custodian thereof and by him, as such custodian, shall place said sums in a special fund hereby created by *this 1977 amendatory act to be designated as the "pressure systems safety fund". Said funds by him shall be paid out upon vouchers duly and regularly issued therefor and approved by the director of the department of labor and industries. The treasurer, as ex officio custodian of said fund, shall keep an accurate record of any payments into said fund, and of all disbursements therefrom. Said fund shall be used exclusively to defray only the expenses of administering chapter 70.79 RCW by the chief inspector as authorized by law and the expenses incident to the maintenance of his office. The fund shall be charged with its pro rata share of the cost of administering said fund which is to be determined by the director of the office of program planning and fiscal management and by the director of the department of labor and industries. [1977 1st ex.s. c 175 § 3; 1951 c 32 § 34.]

*Reviser's notes: (1) "this 1977 amendatory act" consists of the 1977 amendments to RCW 70.79.290, 70.79.330, and 70.79.350.

(2) "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Chapter 70.83

PHENYLKETONURIA AND OTHER PREVENTABLE HERITABLE DISORDERS

Sections

70.83.010	Declaration of policy and purpose.
70.83.060	Repealed.

70.83.010 Declaration of policy and purpose. It is hereby declared to be the policy of the state of Washington to make every effort to detect as early as feasible and to prevent where possible phenylketonuria and other preventable heritable disorders leading to developmental disabilities or physical defects. [1977 1st ex.s. c 80 § 40; 1967 c 82 § 1.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

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

Chapter 70.94

WASHINGTON CLEAN AIR ACT

Sections

70.94.041 Exception—Burning wood at historic structure.
70.94.340 Repealed.

70.94.041 Exception—Burning wood at historic structure. Except as otherwise provided in this section, any building or structure listed on the national register of historic sites, structures, or buildings established pursuant to 80 Stat. 915, 16 U.S.C. Sec. 470a, or on the state register established pursuant to RCW 43.51.770, shall be permitted to burn wood as it would have when it was a functioning facility as an authorized exception to the provisions of this chapter. Such burning of wood shall not be exempted from the provisions of RCW 70.94.710 through 70.94.730. [1977 1st ex.s. c 38 § 1.]

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

Chapter 70.95

SOLID WASTE MANAGEMENT—RECOVERY AND RECYCLING

Sections

70.95.040 Solid waste advisory committee—Created—Membership—Chairman—Meetings—Travel expenses.

70.95.040 Solid waste advisory committee—Created—Membership—Chairman—Meetings—Travel expenses. There is created a solid waste advisory committee to provide consultation to the department of ecology concerning matters covered by this chapter. The committee shall advise on the development of programs and regulations for solid waste handling and solid waste recovery and/or recycling, and shall supply recommendations concerning methods by which existing solid waste handling and solid waste recovery and/or recycling practices and the laws authorizing them may be supplemented and improved.

The committee shall consist of nine members, including the assistant director for the division of solid waste management within the department. The remaining eight members shall be appointed by the director with due regard to the interests of the public, local government, agriculture, industry, public health, and the refuse removal and resource recovery industries. The term of appointment shall be determined by the director. The committee shall elect its own chairman and meet at least four times a year, in accordance with such rules of procedure as it shall establish. Members shall receive no compensation for their services but shall be reimbursed their travel expenses while engaged in business of the

committee in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1977 c 10 § 1. Prior: 1975-'76 2nd ex.s. c 41 § 9; 1975-'76 2nd ex.s. c 34 § 160; 1969 ex.s. c 134 § 4.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Chapter 70.95B

DOMESTIC WASTE TREATMENT PLANTS—CERTIFICATION AND REGULATION OF OPERATORS

Sections

70.95B.070 Board of examiners for wastewater operator certification—Created—Members—Qualifications—Terms—Powers and duties—Travel expenses.

70.95B.070 Board of examiners for wastewater operator certification—Created—Members—Qualifications—Terms—Powers and duties—Travel expenses.

Water and wastewater operator certification board of examiners—Additional members—Additional powers and duties: RCW 70.119.080.

Chapter 70.96A

UNIFORM ALCOHOLISM AND INTOXICATION TREATMENT

Sections

70.96A.120 Treatment and services for intoxicated persons and persons incapacitated by alcohol.
70.96A.140 Involuntary commitment of alcoholics.

70.96A.120 Treatment and services for intoxicated persons and persons incapacitated by alcohol. (1) An intoxicated person may come voluntarily to an approved treatment facility for treatment. A person who appears to be intoxicated in a public place and to be in need of help, if he consents to the proffered help, may be assisted to his home, an approved treatment facility or other health facility.

(2) Except for a person who may be apprehended for possible violation of laws not relating to alcoholism or intoxication and except for a person who may be apprehended for possible violation of laws relating to driving or being in physical control of a vehicle while intoxicated and except for a person who may wish to avail himself of the provisions of RCW 46.20.308, a person who appears to be incapacitated by alcohol and who is in a public place or who has threatened, attempted, or inflicted physical harm on another, shall be taken into protective custody by the police or the emergency service patrol and as soon as practicable, but in no event beyond eight hours brought to an approved treatment facility for treatment. If no approved treatment facility is readily available he shall be taken to an emergency medical service customarily used for incapacitated persons. The police or the emergency service patrol, in detaining the person and in taking him to an approved treatment facility, is taking him into protective custody and shall

make every reasonable effort to protect his health and safety. In taking the person into protective custody, the detaining officer or member of an emergency patrol may take reasonable steps including reasonable force if necessary to protect himself or effect the custody. A taking into protective custody under this section is not an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

(3) A person who comes voluntarily or is brought to an approved treatment facility shall be examined by a qualified person. He may then be admitted as a patient or referred to another health facility, which provides emergency medical treatment, where it appears that such treatment may be necessary. The referring approved treatment facility shall arrange for his transportation.

(4) A person who is found to be incapacitated by alcohol at the time of his admission or to have become incapacitated at any time after his admission, may not be detained at the facility (a) once he is no longer incapacitated by alcohol, and (b) if he remains incapacitated by alcohol for more than forty-eight hours after admission as a patient, unless a petition is filed under RCW 70.96A.140, as now or hereafter amended: *Provided*, That the treatment personnel at the facility are authorized to use such reasonable physical restraint as may be necessary to retain a person incapacitated by alcohol at such facility for up to forty-eight hours from the time of admission. A person may consent to remain in the facility as long as the physician in charge believes appropriate.

(5) A person who is not admitted to an approved treatment facility, is not referred to another health facility, and has no funds, may be taken to his home, if any. If he has no home, the approved treatment facility shall assist him in obtaining shelter.

(6) If a patient is admitted to an approved treatment facility, his family or next of kin shall be notified as promptly as possible. If an adult patient who is not incapacitated requests that there be no notification, his request shall be respected.

(7) The police, members of the emergency service, or treatment facility personnel, who in good faith act in compliance with this chapter are performing in the course of their official duty and are not criminally or civilly liable therefor.

(8) If the person in charge of the approved treatment facility determines it is for the patient's benefit, the patient shall be encouraged to agree to further diagnosis and appropriate voluntary treatment. [1977 1st ex.s. c 62 § 1; 1974 ex.s. c 175 § 1; 1972 ex.s. c 122 § 12.]

70.96A.140 Involuntary commitment of alcoholics.

(1) When the person in charge of a treatment facility, or his designee, receives information alleging that a person is incapacitated as a result of alcoholism, the person in charge, or his designee, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the information, may file a petition for commitment of such person with the superior court or district court. The petition shall allege that the person is

an alcoholic who is incapacitated by alcohol, or that the person has twice before in the preceding twelve months been admitted for the voluntary treatment for alcoholism pursuant to RCW 70.96A.110 and is in need of a more sustained treatment program, or that the person is an alcoholic who has threatened, attempted, or inflicted physical harm on another and is likely to inflict physical harm on another unless committed. A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment. The petition shall be accompanied by a certificate of a licensed physician who has examined the person within two days before submission of the petition, unless the person whose commitment is sought has refused to submit to a medical examination, in which case the fact of refusal shall be alleged in the petition. The certificate shall set forth the physician's findings in support of the allegations of the petition. A physician employed by the petitioning facility or the department is not eligible to be the certifying physician.

(2) Upon filing the petition, the court shall fix a date for a hearing no less than five and no more than ten days after the date the petition was filed unless the person petitioned against is presently being detained by the facility, pursuant to RCW 70.96A.120, as now or hereafter amended, in which case the hearing shall be held within forty-eight hours of the filing of the petition: *Provided, however*, That the above specified forty-eight hours shall be computed by including Saturdays but excluding Sundays and holidays: *Provided further*, That, the court may, upon motion of the person whose commitment is sought, or upon motion of petitioner with written permission of the person whose commitment is sought, or his counsel and, upon good cause shown, extend the date for the hearing. A copy of the petition and of the notice of the hearing, including the date fixed by the court, shall be served by the treatment facility on the person whose commitment is sought, his next of kin, a parent or his legal guardian if he is a minor, and any other person the court believes advisable. A copy of the petition and certificate shall be delivered to each person notified.

(3) At the hearing the court shall hear all relevant testimony, including, if possible, the testimony of at least one licensed physician who has examined the person whose commitment is sought. The person shall be present unless the court believes that his presence is likely to be injurious to him; in this event the court may deem it appropriate to appoint a guardian ad litem to represent him throughout the proceeding. If deemed advisable, the court may examine the person out of courtroom. If the person has refused to be examined by a licensed physician, he shall be given an opportunity to be examined by a court appointed licensed physician. If he refuses and there is sufficient evidence to believe that the allegations of the petition are true, or if the court believes that more medical evidence is necessary, the court may make a temporary order committing him to the department for a period of not more than five days for purposes of a diagnostic examination.

(4) If after hearing all relevant evidence, including the results of any diagnostic examination, the court finds

that grounds for involuntary commitment have been established by clear, cogent, and convincing proof, it shall make an order of commitment to an approved treatment facility. It shall not order commitment of a person unless it determines that an approved treatment facility is able to provide adequate and appropriate treatment for him and the treatment is likely to be beneficial.

(5) A person committed under this section shall remain in the facility for treatment for a period of thirty days unless sooner discharged. At the end of the thirty day period, he shall be discharged automatically unless the facility, before expiration of the period, files a petition for his recommitment upon the grounds set forth in subsection (1) of this section for a further period of ninety days unless sooner discharged. If a person has been committed because he is an alcoholic likely to inflict physical harm on another, the facility shall apply for recommitment if after examination it is determined that the likelihood still exists.

(6) A person recommitted under subsection (5) of this section who has not been discharged by the facility before the end of the ninety day period shall be discharged at the expiration of that period unless the facility, before expiration of the period, obtains a court order on the grounds set forth in subsection (1) of this section for recommitment for a further period not to exceed ninety days. If a person has been committed because he is an alcoholic likely to inflict physical harm on another, the facility shall apply for recommitment if after examination it is determined that the likelihood still exists. Only two recommitment orders under subsections (5) and (6) of this section are permitted.

(7) Upon the filing of a petition for recommitment under subsections (5) or (6) of this section, the court shall fix a date for hearing no less than five and no more than ten days after the date the petition was filed: *Provided*, That, the court may, upon motion of the person whose commitment is sought and upon good cause shown, extend the date for the hearing. A copy of the petition and of the notice of hearing, including the date fixed by the court, shall be served by the treatment facility on the person whose commitment is sought, his next of kin, the original petitioner under subsection (1) of this section if different from the petitioner for recommitment, one of his parents or his legal guardian if he is a minor, and his attorney and any other person the court believes advisable. At the hearing the court shall proceed as provided in subsection (3) of this section.

(8) The facility shall provide for adequate and appropriate treatment of a person committed to its custody. A person committed under this section may be transferred from one approved public treatment facility to another if transfer is medically advisable.

(9) A person committed to the custody of a facility for treatment shall be discharged at any time before the end of the period for which he has been committed and he shall be discharged by order of the court if either of the following conditions are met:

(a) In case of an alcoholic committed on the grounds of likelihood of infliction of physical harm upon another,

that he is no longer an alcoholic or the likelihood no longer exists; or further treatment will not be likely to bring about significant improvement in the person's condition, or treatment is no longer adequate or appropriate.

(b) In case of an alcoholic committed on the grounds of the need of treatment and incapacity, that the incapacity no longer exists.

(10) The court shall inform the person whose commitment or recommitment is sought of his right to contest the application, be represented by counsel at every stage of any proceedings relating to his commitment and recommitment, and have counsel appointed by the court or provided by the court, if he wants the assistance of counsel and is unable to obtain counsel. If the court believes that the person needs the assistance of counsel, the court shall require, by appointment if necessary, counsel for him regardless of his wishes. The person shall, if he is financially able, bear the costs of such legal service; otherwise such legal service shall be at public expense. The person whose commitment or recommitment is sought shall be informed of his right to be examined by a licensed physician of his choice. If the person is unable to obtain a licensed physician and requests examination by a physician, the court shall employ a licensed physician.

(11) A person committed under this chapter may at any time seek to be discharged from commitment by writ of habeas corpus in a court of competent jurisdiction.

(12) The venue for proceedings under this section is the county in which person to be committed resides or is present. [1977 1st ex.s. c 129 § 1; 1974 ex.s. c 175 § 2; 1972 ex.s. c 122 § 14.]

Chapter 70.114

MIGRANT LABOR HOUSING

Sections

70.114.010	Legislative declaration.
70.114.020	Migrant labor housing facility—Department of general administration authorized to contract for continued operation.

70.114.010 Legislative declaration. The legislature finds that the migrant labor housing project constructed on property purchased by the state in Yakima county should be continued until December 1, 1978. [1977 1st ex.s. c 287 § 1; 1975 1st ex.s. c 50 § 1; 1974 ex.s. c 125 § 1.]

70.114.020 Migrant labor housing facility—Department of general administration authorized to contract for continued operation. The department of general administration is authorized to enter into such agreements and contracts as may be necessary to provide for the continued operation of the facility by a state agency, an appropriate local governmental body, or by such other entity as the director may deem appropriate and in the state's best interest. [1977 1st ex.s. c 287 § 2; 1975 1st ex.s. c 50 § 3; 1974 ex.s. c 125 § 4.]

Chapter 70.115.
DRUG INJECTION DEVICES

Sections

70.115.010	Retail sale of hypodermic syringes, needles, etc. prohibited without prescription—Exceptions—Record of sales required.
70.115.020	Board of pharmacy—Rules—Destruction of device after use.
70.115.030	Board of pharmacy—Rule-making authority.
70.115.040	Violations—Penalty.
70.115.900	Severability—1977 1st ex.s. c 249.

70.115.010 Retail sale of hypodermic syringes, needles, etc. prohibited without prescription—Exceptions—Record of sales required. (1) No person shall sell at retail any hypodermic syringe, hypodermic needle, or any device adapted for the use of drugs by injection except upon the prescription of a physician, dentist, veterinarian, or podiatrist, or unless the sale is made to an animal control agent registered with the state board of pharmacy.

(2) Subsection (1) of this section shall not be construed as requiring a prescription where a pharmacist or physician furnishes hypodermic needles and syringes for human use in the administration of insulin or adrenaline or where a pharmacist or veterinarian or other person, firm or corporation regularly engaged in the sale of veterinarian supplies furnishes hypodermic needles and syringes for use on poultry or animals, but no needle or syringe shall be furnished to a person unknown to the furnisher or unable to properly establish his or her identity.

(3) Any person selling or furnishing a syringe, needle, or device under this section other than by prescription shall keep a record of the date of the sale or transfer, the name and address of the purchaser or transferee, proof of the purchaser or transferee's identity, and a description of the device. This record shall be open at all times to inspection by pharmacy board investigators and any law enforcement officer. [1977 1st ex.s. c 249 § 1.]

70.115.020 Board of pharmacy—Rules—Destruction of device after use. The state board of pharmacy shall develop and prescribe methods for the immediate destruction, after final use, of all devices regulated by this chapter in accordance with chapter 34.04 RCW. [1977 1st ex.s. c 249 § 2.]

70.115.030 Board of pharmacy—Rule-making authority. The state board of pharmacy may adopt any necessary rules and regulations under chapter 34.04 RCW for the implementation, continuation, or enforcement of this chapter. [1977 1st ex.s. c 249 § 3.]

70.115.040 Violations—Penalty. Whoever knowingly violates any provision of this chapter or any rule adopted pursuant to this chapter shall be punished by a fine of not more than five hundred dollars. [1977 1st ex.s. c 249 § 4.]

70.115.900 Severability—1977 1st ex.s. c 249. 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. [1977 1st ex.s. c 249 § 5.]

Chapter 70.116

**PUBLIC WATER SYSTEM COORDINATION ACT
OF 1977**

Sections

70.116.010	Legislative declaration.
70.116.020	Declaration of purpose.
70.116.030	Definitions.
70.116.040	Critical water supply service area—Designation—Establishment or amendment of external boundaries—Procedures.
70.116.050	Development of water system plans for critical water supply service areas.
70.116.060	Approval of coordinated water system plan—Limitations following approval.
70.116.070	Service area boundaries within critical water supply area.
70.116.080	Performance standards relating to fire protection.
70.116.090	Assumption of jurisdiction or control of public water system by city, town, or code city.
70.116.100	Bottled water exempt.
70.116.110	Rate making authority preserved.
70.116.120	Short title.
70.116.900	Severability—1977 1st ex.s. c 142.

70.116.010 Legislative declaration. The legislature hereby finds that an adequate supply of potable water for domestic, commercial, and industrial use is vital to the health and well-being of the people of the state. Readily available water for use in public water systems is limited and should be developed and used efficiently with a minimum of loss or waste.

In order to maximize efficient and effective development of the state's public water supply systems, the department of social and health services shall assist water purveyors by providing a procedure to coordinate the planning of the public water supply systems. [1977 1st ex.s. c 142 § 1.]

70.116.020 Declaration of purpose. The purposes of this chapter are:

(1) To provide for the establishment of critical water supply service areas related to water utility planning and development;

(2) To provide for the development of minimum planning and design standards for critical water supply service areas to insure that water systems developed in these areas are consistent with regional needs;

(3) To assist in the orderly and efficient administration of state financial assistance programs for public water systems; and

(4) To assist public water systems to meet reasonable standards of quality, quantity and pressure. [1977 1st ex.s. c 142 § 2.]

70.116.030 Definitions. Unless the context clearly requires otherwise, the following terms when used in this chapter shall be defined as follows:

(1) "Coordinated water system plan" means a plan for public water systems within a critical water supply service area which identifies the present and future

needs of the systems and sets forth means for meeting those needs in the most efficient manner possible. Such a plan shall include provisions for subsequently updating the plan. In areas where more than one water system exists, a coordinated plan may consist of either: (a) A new plan developed for the area following its designation as a critical water supply service area; or (b) a compilation of compatible water system plans existing at the time of such designation and containing such supplementary provisions as are necessary to satisfy the requirements of this chapter. Any such coordinated plan must include provisions regarding: Future service area designations; assessment of the feasibility of shared source, transmission, and storage facilities; emergency inter-ties; design standards; and other concerns related to the construction and operation of the water system facilities.

(2) "Critical water supply service area" means a geographical area which is characterized by a proliferation of small, inadequate water systems, or by water supply problems which threaten the present or future water quality or reliability of service in such a manner that efficient and orderly development may best be achieved through coordinated planning by the water utilities in the area.

(3) "Public water system" means any system providing water intended for, or used for, human consumption or other domestic uses. It includes, but is not limited to, the source, treatment for purifying purposes only, storage, transmission, pumping, and distribution facilities where water is furnished to any community, or number of individuals, or is made available to the public for human consumption or domestic use, but excluding water systems serving one single family residence. However, systems existing on September 21, 1977 which are owner operated and serve less than ten single family residences or which serve only one industrial plant shall be excluded from this definition and the provisions of this chapter.

(4) "Purveyor" means any agency or subdivision of the state or any municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or any other entity, that owns or operates for wholesale or retail service a public water system. It also means the authorized agents of any such entities.

(5) "Secretary" means the secretary of the department of social and health services or the secretary's authorized representative.

(6) "Service area" means a specific geographical area serviced or for which service is planned by a purveyor. [1977 1st ex.s. c 142 § 3.]

70.116.040 Critical water supply service area—Designation—Establishment or amendment of external boundaries—Procedures. (1) The secretary and the appropriate local planning agencies and purveyors, shall study geographical areas where water supply problems related to uncoordinated planning, inadequate water quality or unreliable service appear to exist. If the results of the study indicate that such water supply problems do exist, the secretary or the county legislative authority shall designate the area involved as being a

critical water supply service area, consult with the appropriate local planning agencies and purveyors, and appoint a committee of not less than three representatives therefrom solely for the purpose of establishing the proposed external boundaries of the critical water supply service area. The committee shall include a representative from each purveyor serving more than fifty customers, the county legislative authority, county planning agency, and health agencies. Such proposed boundaries shall be established within six months of the appointment of the committee.

During the six month period following the establishment of the proposed external boundaries of the critical water supply services areas, the county legislative authority shall conduct public hearings on the proposed boundaries and shall modify or ratify the proposed boundaries in accordance with the findings of the public hearings. The boundaries shall reflect the existing land usage, and permitted densities in county plans, ordinances, and/or growth policies. If the proposed boundaries are not modified during the six month period, the proposed boundaries shall be automatically ratified and be the critical water supply service area.

After establishment of the external boundaries of the critical water supply service area, no new public water systems may be approved within the boundary area unless an existing water purveyor is unable to provide water service.

(2) At the time a critical water supply service area is established, the external boundaries for such area shall not include any fractional part of a purveyor's existing contiguous service area.

(3) The external boundaries of the critical water supply service area may be amended in accordance with procedures prescribed in subsection (1) of this section for the establishment of the critical water supply service areas when such amendment is necessary to accomplish the purposes of this chapter. [1977 1st ex.s. c 142 § 4.]

70.116.050 Development of water system plans for critical water supply service areas. (1) Each purveyor within the boundaries of a critical water supply service area shall develop a water system plan for the purveyor's future service area if such a plan has not already been developed: *Provided*, That nonmunicipally owned public water systems are exempt from the planning requirements of this chapter, except for the establishment of service area boundaries if they: (a) Were in existence as of September 21, 1977; and (b) have no plans for water service beyond their existing service area, and (c) meet minimum quality and pressure design criteria established by the state board of health: *Provided further*, That if the county legislative authority permits a change in development that will increase the demand for water service of such a system beyond the existing system's ability to provide minimum water service, the purveyor shall develop a water system plan in accordance with this section. The establishment of future service area boundaries shall be in accordance with RCW 70.116.070.

(2) After the boundaries of a critical water supply service area have been established pursuant to RCW

70.116.040, the committee established in RCW 70.116.040 shall participate in the development of a coordinated water system plan for the designated area. Such a plan shall incorporate all water system plans developed pursuant to subsection (1) of this section. The plan shall provide for maximum integration and coordination of public water system facilities consistent with the protection and enhancement of the public health and well-being.

(3) Those portions of a critical water supply service area not yet served by a public water system shall have a coordinated water system plan developed by existing purveyors based upon permitted densities in county plans, ordinances, and/or growth policies for a minimum of five years beyond the date of establishment of the boundaries of the critical water supply service area.

(4) To insure that the plan incorporates the proper designs to protect public health, the secretary shall adopt regulations pursuant to chapter 34.04 RCW concerning the scope and content of coordinated water system plans, and shall ensure, as minimum requirements, that such plans:

(a) Are reviewed by the appropriate local governmental agency to insure that the plan is not inconsistent with the land use plans, shoreline master programs, and/or developmental policies of the general purpose local government or governments whose jurisdiction the water system plan affects.

(b) Recognize all water resource plans, water quality plans, and water pollution control plans which have been adopted by units of local, regional, and state government.

(c) Incorporate the fire protection standards developed pursuant to RCW 70.116.080.

(d) Identify the future service area boundaries of the public water system or systems included in the plan within the critical water supply service area.

(e) Identify feasible emergency inter-ties between adjacent purveyors.

(5) If a "water general plan" for a critical water supply service area or portion thereof has been prepared pursuant to chapter 36.94 RCW and such a plan meets the requirements of subsections (1) and (4) of this section, such a plan shall constitute the coordinated water system plan for the applicable geographical area.

(6) Prior to the submission of a coordinated water system plan to the secretary for approval of the design of the proposed facilities pursuant to RCW 70.116.060, the plan shall be reviewed for consistency with subsection (4) of this section by the legislative authorities of the counties in which the critical water supply service area is located. If within sixty days of receipt of the plan, the legislative authorities find any segment of a proposed service area of a purveyor's plan or any segment of the coordinated water system plan to be inconsistent with any current land use plans, shoreline master programs, and/or developmental policies of the general purpose local government or governments whose jurisdiction the water system plan affects, the secretary shall not approve that portion of the plan until the inconsistency

is resolved between the local government and the purveyor. If no comments have been received from the legislative authorities within sixty days of receipt of the plan, the secretary may consider the plan for approval. [1977 1st ex.s. c 142 § 5.]

70.116.060 Approval of coordinated water system plan—Limitations following approval. (1) A coordinated water system plan shall be submitted to the secretary for design approval within two years of the establishment of the boundaries of a critical water supply service area.

(2) The secretary shall not approve those portions of a coordinated water system plan which fail to meet the requirements for future service area boundaries as set forth in RCW 70.116.070.

(3) Following the approval of a coordinated water system plan by the secretary:

(a) All purveyors constructing or proposing to construct public water system facilities within the area covered by the plan shall comply with the plan.

(b) No other purveyor shall establish a public water system within the area covered by the plan, unless the secretary determines that existing purveyors are unable to provide the service. If such a determination is made, the secretary may require the new public water system to be constructed in accordance with the construction standards and specifications embodied in the coordinated water system plan approved for the area.

(4) The secretary may deny proposals to establish or to expand any public water system within a critical water supply service area for which there is not an approved coordinated water system plan at any time after two years of the establishment of the critical water supply service area: *Provided*, That service connections shall not be considered expansions. [1977 1st ex.s. c 142 § 6.]

70.116.070 Service area boundaries within critical water supply area. (1) The service area boundaries of public water systems within the critical water supply service area shall be determined by written agreement among the purveyors and with the approval of the appropriate legislative authority. Failure of the legislative authority to file with the secretary objections to the proposed service area boundaries within sixty days of receipt of the proposed boundary agreement may be construed as approval of the agreement.

(2) If no service area boundary agreement has been established within a reasonable period of time, or if the legislative authority has filed with the secretary objections in writing as provided in subsection (1) of this section, the secretary shall hold a public hearing thereon. The secretary shall provide notice of the hearing by certified mail to each purveyor providing service in the critical water supply service area, to each county legislative authority having jurisdiction in the area and to the public. The secretary shall provide public notice pursuant to the provisions of chapter 65.16 RCW. Such notice shall be given at least twenty days prior to the hearing. The hearing may be continued from time to time and, at the termination thereof, the secretary may restrict the

expansion of service of any purveyor within the area if the secretary finds such restriction is necessary to provide the greatest protection of the public health and well-being. [1977 1st ex.s. c 142 § 7.]

70.116.080 Performance standards relating to fire protection. The secretary shall adopt performance standards relating to fire protection to be incorporated into the design and construction of public water systems. The standards shall be consistent with recognized national standards. The secretary shall adopt regulations pertaining to the application and enforcement of the standards: *Provided*, That the regulations shall require the application of the standards for new and expanding systems only. The standards shall apply in critical water supply service areas unless the approved coordinated plan provides for nonfire flow systems. [1977 1st ex.s. c 142 § 8.]

70.116.090 Assumption of jurisdiction or control of public water system by city, town, or code city. The assumption of jurisdiction or control of any public water system or systems by a city, town, or code city, shall be subject to the provisions of chapter 35.13A RCW, and the provisions of this chapter shall be superseded by the provisions of chapter 35.13A RCW regarding such an assumption of jurisdiction. [1977 1st ex.s. c 142 § 9.]

70.116.100 Bottled water exempt. Nothing in this chapter shall apply to water which is bottled or otherwise packaged in a container for human consumption or domestic use, or to the treatment, storage and transportation facilities used in the processing of the bottled water of the distribution of the bottles or containers of water. [1977 1st ex.s. c 142 § 10.]

70.116.110 Rate making authority preserved. Nothing in this chapter shall be construed to alter in any way the existing authority of purveyors and municipal corporations to establish, administer and apply water rates and rate provisions. [1977 1st ex.s. c 142 § 11.]

70.116.120 Short title. This chapter shall be known and may be cited as the "Public Water System Coordination Act of 1977". [1977 1st ex.s. c 142 § 12.]

70.116.900 Severability—1977 1st ex.s. c 142. 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. [1977 1st ex.s. c 142 § 13.]

Chapter 70.117

SKIING AND COMMERCIAL SKI ACTIVITY

Sections

70.117.010	Ski area sign requirements.
70.117.020	Standard of conduct—Prohibited acts—Responsibility.
70.117.030	Leaving scene of skiing accident—Penalty.
70.117.040	Insurance requirements for operators.

70.117.010 Ski area sign requirements. (1) The operator of any ski area shall maintain a sign system.

All signs for instruction of the public shall be bold in design with wording short, simple, and to the point. All such signs shall be prominently placed.

Entrances to all machinery, operators', and attendants' rooms shall be posted to the effect that unauthorized persons are not permitted therein.

The sign "Men Working on Lift" or a similar warning sign shall be hung on the main disconnect switch and at control points for starting the auxiliary or prime mover when men are working on the passenger tramway.

(2) The interior of each reversible aerial tramway and gondola lift shall be prominently posted to show:

(a) The maximum capacity of each reversible aerial tramway and gondola lift in pounds and number of passengers (which shall also be posted at each loading area); and

(b) Instructions for procedure in emergencies.

(3) The following signs shall be posted at all aerial lifts except gondola lifts:

(a) "Prepare to Unload" (not less than fifty feet ahead of unloading area);

(b) "Keep Ski Tips Up" (ahead of any point where skis may come in contact with a platform or the snow surface);

(c) "Unload Here";

(d) "Safety Gate" (if applicable);

(e) "Remove Pole Straps from Wrists" (at loading area); and

(f) Sign visible at all points of downhill loading, listing downhill capacity of lift.

(4) The following signs shall be posted at all surface lifts:

(a) "Prepare to Unload" (not less than fifty feet ahead of unloading area);

(b) "Stay in Track";

(c) "Unload Here";

(d) "Safety Gate"; and

(e) "Remove Pole Straps from Wrists" (at loading area).

(5) The following signs shall be posted at all tows:

(a) "No Loose Scarves

No Loose Clothing

No Long Hair Exposed"

(at loading area);

(b) "Stay in Track";

(c) "Unload Here"; and

(d) "Safety Gate".

(6) All signs required for normal daytime operation shall be in place, and those pertaining to the tramway, lift, or tow operations shall be adequately lighted for night skiing.

(7) If a particular trail or slope has been closed to the public by an operator, the operator shall place a notice thereof at the top of the trail or slope involved, and no person shall ski on a slope or trail which has been designated "Closed".

(8) An operator shall place a notice at the embarking terminal or terminals of a lift or tow which has been closed that the lift or tow has been closed and that a

person embarking on such a lift or tow shall be considered to be a trespasser.

(9) An operator shall prominently place a notice containing the substance of RCW 70.117.030 in such places as are necessary to notify the public.

(10) Any snow making machines or equipment shall be clearly visible and clearly marked.

(11) The operator of any ski area shall maintain a readily visible sign on each rope tow, wire rope tow, j-bar, t-bar, ski lift, or other similar device, advising the users of the device that:

(a) Any person not familiar with the operation of the lift shall ask the operator thereof for assistance and/or instruction; and

(b) The skiing-ability level recommended for users of the lift and the slopes served by the device shall be classified "easiest", "more difficult", and "most difficult". [1977 1st ex.s. c 139 § 1.]

70.117.020 Standard of conduct—Prohibited acts—Responsibility. (1) In addition to the specific requirements of this section, all skiers shall conduct themselves within the limits of their individual ability and shall not act in a manner that may contribute to the injury of themselves or any other person.

(2) No person shall:

(a) Embark or disembark upon a ski lift except at a designated area;

(b) Throw or expel any object from any tramway, ski lift, commercial skimobile, or other similar device while riding on the device;

(c) Act in any manner while riding on a rope tow, wire rope tow, j-bar, t-bar, ski lift, or similar device that may interfere with the proper or safe operation of the lift or tow;

(d) Wilfully engage in any type of conduct which may injure any person, or place any object in the uphill ski track which may cause another to fall, while traveling uphill on a ski lift; or

(e) Cross the uphill track of a j-bar, t-bar, rope tow, wire rope tow, or other similar device except at designated locations.

(3) Every person shall maintain control of his or her speed and course at all times, and shall stay clear of any snowgrooming equipment, any vehicle, any lift tower, and any other equipment on the mountain. Snow grooming equipment or any other vehicles shall be equipped with a flashing yellow light at any time the vehicle is moving on or in the vicinity of a ski run.

(4) A person shall be the sole judge of his or her ability to negotiate any trail, slope, or uphill track and no action shall be maintained against any operator by reason of the condition of the track, trail, or slope unless the condition results from the negligence of the operator.

(5) Any person who boards a rope tow, wire rope tow, j-bar, t-bar, ski lift, or other similar device shall be presumed to have sufficient abilities to use the lift. No liability shall attach to any operator or attendant for failure to instruct the person on the use of the device, but a person shall follow any written or verbal instructions that are given regarding the use.

(6) Because of the inherent risk in the sport of skiing all persons using the ski hill shall exercise reasonable care for their own safety. However, the primary duty shall be on the person skiing downhill to avoid any collision with any person or object below him or her.

(7) Subsection (6) of this section notwithstanding, any person skiing on other than improved trails or slopes within the area shall be responsible for any injuries or losses resulting from his or her action.

(8) Subsections (6) and (7) of this section notwithstanding, any person on foot or on any type of sliding device shall be responsible for any collision whether the collision is with another person or with an object.

(9) A person embarking on a lift or tow without authority shall be considered to be a trespasser. [1977 1st ex.s. c 139 § 2.]

70.117.030 Leaving scene of skiing accident—Penalty. Any person who is involved in a skiing accident and who departs from the scene of the accident without leaving personal identification or otherwise clearly identifying himself or herself before notifying the proper authorities or obtaining assistance, knowing that any other person involved in the accident is in need of medical or other assistance, shall be guilty of a misdemeanor. [1977 1st ex.s. c 139 § 3.]

70.117.040 Insurance requirements for operators. (1) Every tramway, ski lift, or commercial skimobile operator shall maintain liability insurance of not less than one hundred thousand dollars per person per accident and of not less than two hundred thousand dollars per accident.

(2) Every operator of a rope tow, wire rope tow, j-bar, t-bar, or similar device shall maintain liability insurance of not less than twenty-five thousand dollars per person per accident and of not less than fifty thousand dollars per accident.

(3) This section shall not apply to operators of tramways that are not open to the general public and that are operated without charge, except that this section shall apply to operators of tramways that are operated by schools, ski clubs, or similar organizations. [1977 1st ex.s. c 139 § 4.]

Chapter 70.118

ON-SITE SEWAGE DISPOSAL SYSTEMS

Sections

70.118.010	Legislative declaration.
70.118.020	Definitions.
70.118.030	Local boards of health—Duties.
70.118.040	Local boards of health—Authority to waive sections of local plumbing and/or building codes.

70.118.010 Legislative declaration. The legislature finds that over one million, two hundred thousand persons in the state are not served by sanitary sewers and that they must rely on septic tank systems. The failure of large numbers of such systems has resulted in significant health hazards, loss of property values, and water quality degradation. The legislature further finds that

failure of such systems could be reduced by utilization of nonwater-carried sewage disposal systems, or other alternative methods of effluent disposal, as a correctional measure. Waste water volume diminution and disposal of most of the high bacterial waste through composting or other alternative methods of effluent disposal would result in restorative improvement or correction of existing substandard systems. [1977 1st ex.s. c 133 § 1.]

70.118.020 Definitions. As used in this chapter, the terms defined in this section shall have the meanings indicated unless the context clearly indicates otherwise.

(1) "Nonwater-carried sewage disposal devices" means any device that stores and treats nonwater-carried human urine and feces.

(2) "Alternative methods of effluent disposal" means systems approved by the department of social and health services, including at least, mound systems, alternating drain fields, anaerobic filters, evapotranspiration systems, and aerobic systems.

(3) "Failure" means: (a) Effluent has been discharged on the surface of the ground prior to approved treatment; or (b) effluent has percolated to the surface of the ground; or (c) effluent has contaminated or threatens to contaminate a ground water supply. [1977 1st ex.s. c 133 § 2.]

70.118.030 Local boards of health—Duties. Local boards of health shall identify failing septic tank drainfield systems in the normal manner and will use reasonable effort to determine new failures. Discretionary judgment will be made in implementing corrections by specifying nonwater-carried sewage disposal devices or other alternative methods of treatment and effluent disposal as a measure of ameliorating existing substandard conditions. Local regulations shall be consistent with the intent and purposes stated herein. [1977 1st ex.s. c 133 § 3.]

70.118.040 Local boards of health—Authority to waive sections of local plumbing and/or building codes. With the advice of the secretary of the department of social and health services, local boards of health are hereby authorized to waive applicable sections of local plumbing and/or building codes that might prohibit the use of an alternative method for correcting a failure. [1977 1st ex.s. c 133 § 4.]

Chapter 70.119

PUBLIC WATER SUPPLY SYSTEMS— CERTIFICATION AND REGULATION OF OPERATORS

Sections	
70.119.010	Legislative declaration.
70.119.020	Definitions.
70.119.030	Certified operators required for certain public water supply systems.
70.119.040	Exclusions from chapter.
70.119.050	Rules and regulations—Secretary to adopt.
70.119.060	Public water supply systems—Secretary to categorize.

70.119.070	Secretary—Consideration of guidelines.
70.119.080	Water and wastewater operator certification board of examiners—Additional members—Additional powers and duties.
70.119.090	Certificates without examination—Conditions.
70.119.100	Certificates—Issuance and renewal—Conditions.
70.119.110	Certificates—Grounds for revocation.
70.119.120	Secretary—Powers and duties.
70.119.130	Violations—Penalties.
70.119.140	Certificates—Reciprocity with other states.
70.119.150	Disposition of receipts.
70.119.900	Effective date—1977 1st ex.s. c 99.

70.119.010 Legislative declaration. The legislature declares that competent operation of a public water supply system is necessary for the protection of the consumers' health, and therefore it is of vital interest to the public. In order to protect the public health and conserve and protect the water resources of the state, it is necessary to provide for the classifying of all public water supply systems; to require the examination and certification of the persons responsible for the supervision and operation of such systems; and to provide for the promulgation of rules and regulations to carry out this chapter. [1977 1st ex.s. c 99 § 1.]

70.119.020 Definitions. As used in this chapter unless context requires another meaning:

(1) "Board" means the board established pursuant to RCW 70.95B.070 which shall be known as the water and waste water operator certification board of examiners.

(2) "Certificate" means a certificate of competency issued by the secretary stating that the operator has met the requirements for the specified operator classification of the certification program.

(3) "Department" means the department of social and health services.

(4) "Distribution system" means that portion of a public water supply system which stores, transmits, pumps and distributes water to consumers.

(5) "Nationally recognized association of certification authorities" shall mean an organization which serves as an information center for certification activities, recommends minimum standards and guidelines for classification of potable water treatment plants, water distribution systems and waste water facilities and certification of operators, facilitates reciprocity between state programs and assists authorities in establishing new certification programs and updating existing ones.

(6) "Operator" means an individual employed or appointed by any county, water district, municipality, public or private corporation, company, institution, person, or the state of Washington who is designated by the employing or appointing officials to operate or assist in the operation of a water purification plant or distribution system.

(7) "Public water supply system" means any water supply system intended or used for human consumption or other domestic uses, including source, treatment, storage, transmission and distribution facilities where water is furnished to any community or group of individuals, or is made available to the public for human

consumption or domestic use, but excluding all water supply systems serving one single family residence.

(8) "Purification plant" means that portion of a public water supply system which treats or improves the physical, chemical or bacteriological quality of the system's water to bring the water into compliance with state board of health standards.

(9) "Secretary" means the secretary of the department of social and health services. [1977 1st ex.s. c 99 § 2.]

70.119.030 Certified operators required for certain public water supply systems. (1) All public water supply systems which serve either:

(a) One hundred services in use at any one time; or

(b) Twenty-five or more persons which are supplied from a stream, lake or other surface water supply source and which are required by law to use a water filtration system;

are required to have a certified operator designated by the employing or appointing official as the person responsible for active daily technical direction and supervision. The certified operators shall be in charge of the technical direction and supervision of a public water system's operation, or an operating shift of such a system, or a major segment of a system necessary for monitoring or improving the quality of water. The operator shall be certified as provided in RCW 70.119.050.

(2) The amount of time that a certified operator shall be required to be present shall be based upon the time required to properly operate and maintain the public water supply system as designed and constructed in accordance with RCW 43.20.050.

(3) Operators not required to be certified by this chapter are encouraged to become certified on a voluntary basis. [1977 1st ex.s. c 99 § 3.]

70.119.040 Exclusions from chapter. Nothing in this chapter shall apply to:

(1) Industrial water supply systems which do not supply water to residences for domestic use and are under the jurisdictional requirements of the Washington Industrial Safety and Health Act of 1973, chapter 49.17 RCW, as now or hereafter amended; or

(2) The preparation, distribution, or sale of bottled water or water similarly packaged. [1977 1st ex.s. c 99 § 4.]

70.119.050 Rules and regulations—Secretary to adopt. The secretary shall adopt, with the approval of the board, such rules and regulations as may be necessary for the administration of this chapter and shall enforce such rules and regulations. The rules and regulations shall include provisions establishing minimum qualifications and procedures for the certification of operators, criteria for determining the kind and nature of continued professional growth required for renewal of certification under RCW 70.119.100(2), and provisions for classifying water purification plants and distribution systems.

Rules and regulations adopted under the provisions of this section shall be adopted in accordance with the provisions of chapter 34.04 RCW. [1977 1st ex.s. c 99 § 5.]

70.119.060 Public water supply systems—Secretary to categorize. The secretary shall further categorize all public water supply systems with regard to the size, type, source of water, and other relevant physical conditions affecting purification plants and distribution systems to assist in identifying the skills, knowledge and experience required for the certification of operators for each category of such systems. [1977 1st ex.s. c 99 § 6.]

70.119.070 Secretary—Consideration of guidelines. The secretary is authorized, when taking action pursuant to RCW 70.119.050 and 70.119.060, to consider generally applicable criteria and guidelines developed by a nationally recognized association of certification authorities. [1977 1st ex.s. c 99 § 7.]

70.119.080 Water and wastewater operator certification board of examiners—Additional members—Additional powers and duties. For the purpose of carrying out the provisions of this chapter, the membership of the water and wastewater operator certification board of examiners established under RCW 70.95B.070, shall, pursuant to RCW 70.95B.070:

(1) Be expanded to include two waterworks operators; and

(2) Serve in a common capacity for the certification of both water and wastewater plant and system operators.

In addition to the powers and duties in RCW 70.95B.070, the board shall assist in the development of rules and regulations implementing this chapter, shall prepare, administer and evaluate examinations of operator competency as required in this chapter, and shall recommend the issuance or revocation of certificates. The board shall determine where and when the examinations shall be held. Such examinations shall be held at least three times annually. [1977 1st ex.s. c 99 § 8.]

70.119.090 Certificates without examination—Conditions. Certificates shall be issued without examination under the following conditions:

(1) Certificates shall be issued without application fee to operators who, on the effective date of this act, hold certificates of competency attained under the voluntary certification program sponsored jointly by the state department of social and health services, health services division, and the Pacific Northwest section of the American water works association.

(2) Certification shall be issued to persons certified by a governing body or owner of a public water supply system to have been the operators of a purification plant or distribution system on the effective date of this chapter but only to those who are required to be certified under RCW 70.119.030(1). A certificate so issued shall be conditioned to be valid only for operating the existing plant or system.

(3) A nonrenewable certificate, temporary in nature, may be issued to an operator for a period not to exceed

twelve months to fill a vacated position required to have a certified operator. Only one such certificate may be issued subsequent to each instance of vacation of any such position. [1977 1st ex.s. c 99 § 9.]

70.119.100 Certificates—Issuance and renewal—Conditions. The issuance and renewal of a certificate shall be subject to the following conditions:

(1) Except as provided in RCW 70.119.090, a certificate shall be issued if the operator has satisfactorily passed a written examination, has paid the department an application fee of ten dollars, and has met the requirements specified in the rules and regulations as authorized by this chapter.

(2) The terms for all certificates shall be for one year from the date of issuance. Every certificate shall be renewed annually upon the payment of a five dollar renewal fee and satisfactory evidence presented to the secretary that the operator demonstrates continued professional growth in the field.

(3) The secretary shall notify operators who fail to renew their certificates before the end of the certificate year that their certificates are temporarily valid for two months following the end of the certificate year. Certificates not renewed during the two month period shall be invalid and the secretary shall so notify the holders of such certificates.

(4) An operator who has failed to renew a certificate pursuant to the provisions of this section, may reapply for certification and the secretary may require the operator to meet the requirements established for new applicants. [1977 1st ex.s. c 99 § 10.]

70.119.110 Certificates—Grounds for revocation. The secretary may, with the recommendation of the board and after hearing before the same, revoke a certificate found to have been obtained by fraud or deceit; or for gross negligence in the operation of a purification plant or distribution system; or for violating the requirements of this chapter or any lawful rules, order, or regulation of the department. No person whose certificate is revoked under this section shall be eligible to apply for a certificate for one year from the effective date of the final order of revocation. [1977 1st ex.s. c 99 § 11.]

70.119.120 Secretary—Powers and duties. To carry out the provisions and purposes of this chapter, the secretary is authorized and empowered to:

(1) Receive financial and technical assistance from the federal government and other public or private agencies.

(2) Participate in related programs of the federal government, other state, interstate agencies, or other public or private agencies or organizations. [1977 1st ex.s. c 99 § 12.]

70.119.130 Violations—Penalties. On or after one year following the effective date of this act, any person, including any operator or any firm, association, corporation, municipal corporation, or other governmental subdivision or agency who, after thirty days' written notice, operates a public water supply system which is

not in compliance with RCW 70.119.030(1), shall be guilty of a misdemeanor. Each day of such operation out of compliance with RCW 70.119.030(1) shall constitute a separate offense. Upon conviction, violators shall be fined an amount not exceeding one hundred dollars for each offense. It shall be the duty of the prosecuting attorney or the attorney general, as appropriate to secure injunctions of continuing violations of any provisions of this chapter or the rules and regulations adopted hereunder: *Provided*, That, except in the case of fraud, deceit, or gross negligence under RCW 70.119.110, no revocation, citation or charge shall be made under RCW 70.119.110 and 70.119.130 until a proper written notice of violation is received and a reasonable opportunity for correction has been given. [1977 1st ex.s. c 99 § 13.]

70.119.140 Certificates—Reciprocity with other states. Operators certified by any state under provisions that, in the judgment of the secretary, are substantially equivalent to the requirements of this chapter and any rules and regulations promulgated hereunder, may be issued, upon application, a certificate without examination.

In making determinations pursuant to this section, the secretary shall consult with the board and may consider any generally applicable criteria and guidelines developed by a nationally recognized association of certification authorities. [1977 1st ex.s. c 99 § 14.]

70.119.150 Disposition of receipts. All receipts realized in the administration of this chapter shall be paid into the general fund. [1977 1st ex.s. c 99 § 15.]

70.119.900 Effective date—1977 1st ex.s. c 99. This act shall take effect on January 1, 1978. [1977 1st ex.s. c 99 § 17.]

Title 71

MENTAL ILLNESS AND INEBRIACY

Chapters

71.05	Mental illness.
71.06	Sexual psychopaths and psychopathic delinquents.
71.12	Private establishments.
71.28	Mental health and developmental disabilities services—Interstate contracts.

Chapter 71.05

MENTAL ILLNESS

Sections

71.05.040	No detention or judicial commitment—Developmentally disabled—Senile—Chronic alcoholic or drug abuse impaired.
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71.05.040 No detention or judicial commitment—Developmentally disabled—Senile—Chronic alcoholic or drug abuse impaired. Persons who are developmentally disabled, impaired by chronic alcoholism or drug abuse, or senile shall not be detained for evaluation and treatment or judicially committed solely by reason of that condition unless such condition causes a person to be gravely disabled or as a result of a mental disorder such condition exists that constitutes a likelihood of serious harm to self or others: *Provided*, That a person shall not be subject to the provisions of this chapter if proceedings have been initiated under the provisions of the Washington Uniform Alcoholism and Intoxication Treatment Act, chapter 70.96A RCW. [1977 1st ex.s. c 80 § 41; 1975 1st ex.s. c 199 § 1; 1974 ex.s. c 145 § 5; 1973 1st ex.s. c 142 § 9.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Chapter 71.06

SEXUAL PSYCHOPATHS AND PSYCHOPATHIC DELINQUENTS

Sections

71.06.010 Definitions.

71.06.010 Definitions. As used in this chapter, the following terms shall have the following meanings:

"Psychopathic personality" means the existence in any person of such hereditary, congenital or acquired condition affecting the emotional or volitional rather than the intellectual field and manifested by anomalies of such character as to render satisfactory social adjustment of such person difficult or impossible.

"Sexual psychopath" means any person who is affected in a form of psychoneurosis or in a form of psychopathic personality, which form predisposes such person to the commission of sexual offenses in a degree constituting him a menace to the health or safety of others.

"Sex offense" means one or more of the following: Abduction, incest, rape, assault with intent to commit rape, indecent assault, contributing to the delinquency of a minor involving sexual misconduct, sodomy, indecent exposure, indecent liberties with children, carnal knowledge of children, soliciting or enticing or otherwise communicating with a child for immoral purposes, vagrancy involving immoral or sexual misconduct, or an attempt to commit any of the said offenses.

"Psychopathic delinquent" means any minor who is psychopathic, and who is a habitual delinquent, if his delinquency is such as to constitute him a menace to the health, person, or property of himself or others, and the minor is not a proper subject for commitment to a state correctional school, a penal institution, to a state school for the developmentally disabled, or to a state hospital as a mentally ill person.

"Minor" means any person under eighteen years of age.

"Department" means department of social and health services.

"Court" means the superior court of the state of Washington.

"Superintendent" means the superintendent of a state institution designated for the custody, care and treatment of sexual psychopaths or psychopathic delinquents. [1977 1st ex.s. c 80 § 42; 1971 ex.s. c 292 § 65; 1961 c 65 § 1; 1959 c 25 § 71.06.010. Prior: 1957 c 184 § 1; 1951 c 223 § 2; 1949 c 198 §§ 25 and 40; Rem. Supp. 1949 §§ 6953-25 and 6953-40.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

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

Chapter 71.12

PRIVATE ESTABLISHMENTS

Sections

71.12.455 Definitions.

71.12.455 Definitions. As used in this chapter, "establishment" and "institution" mean and include every private hospital, sanitarium, home, or other place receiving or caring for any mentally ill, or mentally incompetent person, or alcoholic. [1977 1st ex.s. c 80 § 43; 1959 c 25 § 71.12.455. Prior: 1949 c 198 § 53; Rem. Supp. 1949 § 6953-52a. Formerly RCW 71.12.010, part.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Chapter 71.28

MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES SERVICES—INTERSTATE CONTRACTS

Sections

71.28.010 Contracts by boundary counties or cities therein.

71.28.010 Contracts by boundary counties or cities therein. Any county, or city within a county which is situated on the state boundaries is authorized to contract for mental health and/or developmental disabilities services with a county situated in either the states of Oregon or Idaho, located on the boundaries of such states with the state of Washington. [1977 1st ex.s. c 80 § 44; 1967 c 84 § 1.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Title 72

STATE INSTITUTIONS

Chapters

72.01 Administration.
72.05 Children and youth services.
72.06 Mental health.
72.16 Green Hill school.

- 72.23 Public and private facilities for mentally ill.
 72.25 Nonresident mentally ill, sexual psychopaths, and psychopathic delinquents.
 72.29 Multi-use facilities for the mentally or physically handicapped or the mentally ill.
 72.30 Interlake school.
 72.33 State residential schools—Residential placement, etc.
 72.36 Soldiers' and veterans' homes.
 72.40 State schools for blind, deaf, sensory handicapped.
 72.60 Institutional industries commission.
 72.70 Western interstate corrections compact.

Chapter 72.01 ADMINISTRATION

Sections

- 72.01.050 Director's powers and duties—Management of public institutions.
 72.01.320 Annual reports to legislature and governor—Contents.
 72.01.420 Repealed.

72.01.050 Director's powers and duties—Management of public institutions. The director shall have full power to manage and govern the following public institutions.

The western state hospital, the eastern state hospital, the northern state hospital, the state penitentiary, the state reformatory, the state training school, the state school for girls, Lakeland Village, the Rainier school, the state school for the deaf, the state school for the blind, the state narcotic farm colony, the Fort Worden school for the care and custody of children and youth and such other institutions as authorized by law, subject only to the limitations contained in laws relating to the management of such institutions. [1977 c 31 § 1; 1959 c 28 § 72.01.050. Prior: 1955 c 195 § 4(1); 1915 c 107 § 1, part; 1907 c 166 § 2, part; 1901 c 119 § 3, part; RRS § 10899, part. Formerly RCW 43.28.020, part.]

Correctional institution for juveniles: Chapter 72.18 RCW.

Correctional institution for male felons—Reception and classification center: Chapter 72.13 RCW.

Fircrest school, Yakima Valley school, established: RCW 72.33.030.

72.01.320 Annual reports to legislature and governor—Contents. The director shall examine into the conditions and needs of the several state institutions under his control and report in writing to the governor the condition of each institution.

The director shall also provide the governor and legislature a full report of the activities of his department each fiscal year, incorporating therein suggestions respecting legislation for the benefit of the several institutions under his control and in the interests of improved administration generally. [1977 c 75 § 84; 1959 c 28 § 72.01.320. Prior: 1955 c 195 § 5. (i) 1901 c 119 § 14; RRS § 10915. (ii) 1915 c 107 § 1, part; 1907 c 166 § 2, part; 1901 c 119 § 3, part; RRS § 10899, part. Formerly RCW 43.28.030.]

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

Chapter 72.05 CHILDREN AND YOUTH SERVICES

Sections

- 72.05.170 Counseling and consultative services.

72.05.170 Counseling and consultative services. The department may provide professional counseling services to delinquent children and their parents, consultative services to communities dealing with problems of children and youth, and may give assistance to law enforcement agencies by means of juvenile control officers who may be selected from the field of police work. [1977 1st ex.s. c 80 § 45; 1959 c 28 § 72.05.170. Prior: 1955 c 240 § 1. Formerly RCW 43.19.405.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Chapter 72.06 MENTAL HEALTH

Sections

- 72.06.050 Mental health—Dissemination of information and advice by department.
 72.06.060 Mental health—Psychiatric outpatient clinics.

72.06.050 Mental health—Dissemination of information and advice by department. The department shall cooperate with other departments of state government and its political subdivisions in the following manner:

(1) By disseminating educational information relating to the prevention, diagnosis and treatment of mental illness.

(2) Upon request therefor, by advising public officers, organizations and agencies interested in the mental health of the people of the state. [1977 1st ex.s. c 80 § 46; 1959 c 28 § 72.06.050. Prior: 1955 c 136 § 2. Formerly RCW 43.28.600.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

72.06.060 Mental health—Psychiatric outpatient clinics. The department is hereby authorized to establish and maintain psychiatric outpatient clinics at such of the several state mental institutions as the director shall designate for the prevention, diagnosis and treatment of mental illnesses, and the services of such clinics shall be available to any citizen of the state in need thereof, when determined by a physician that such services are not otherwise available, subject to the rules of the department. [1977 1st ex.s. c 80 § 47; 1959 c 28 § 72.06.060. Prior: 1955 c 136 § 3. Formerly RCW 43.28.610.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Chapter 72.16
GREEN HILL SCHOOL

Sections

72.16.090 Repealed.

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

Chapter 72.23
PUBLIC AND PRIVATE FACILITIES FOR
MENTALLY ILL

Sections

72.23.070 Voluntary patients—Right to receive—Application—Review of condition and status—Minors, commitment procedure and requirements, rights.

72.23.070 Voluntary patients—Right to receive—Application—Review of condition and status—Minors, commitment procedure and requirements, rights. Pursuant to rules and regulations established by the department, a public or private facility may receive any person who is a suitable person for care and treatment as mentally ill, or for observation as to the existence of mental illness, upon the receipt of a written application of the person, or others on his behalf, in accordance with the following requirements:

(1) In the case of a person eighteen years of age or over, the application shall be voluntarily made by the person;

(2) In the case of a person thirteen years of age or under, the application may be voluntarily made by his parents, or by the parent, limited guardian as authorized, guardian, or other person entitled to his custody. When such person is more than thirteen years of age, such application must be accompanied by the written consent, knowingly and voluntarily given, of the minor. All such voluntary applications to a public agency shall be reviewed by the county mental health professionals, who shall submit a written report and evaluation with recommendations to the superintendent of such facility to which such application is made stating whether treatment is necessary and proper on a voluntary basis and evaluating the reasons for voluntary commitment. Such person's condition and status shall be reviewed by the professional person in charge of the facility or his designee at least once each one hundred eighty days. A person under eighteen years of age received into a public facility as a voluntary patient shall not be retained after he reaches eighteen years of age, but such person, upon reaching eighteen years of age, may apply for admission into a public or private facility as a voluntary patient.

(3) No minor over thirteen years of age shall be involuntarily committed to a state or private facility for care and treatment as mentally disordered, or for observation as to the existence of mental disorder, except in accordance with the following requirements:

(a) The facility must be certified by the department of social and health services to provide evaluation and treatment to persons under eighteen years of age suffering from mental disorders: *Provided*, That a physically

separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility: *Provided further*, That a facility which is part of, or a part of, or operated by, the department of social and health services or any federal agency will not require certification.

(b) A petition shall be filed with the juvenile court by the person's parent, parents, limited guardian as authorized, guardian, or by the juvenile court itself. The petition shall set forth the reasons why commitment is necessary and what alternative courses of treatment have been explored. The juvenile court shall then conduct a hearing, at which the person under eighteen years of age shall be represented by an attorney, to determine whether commitment is clearly in the best interests of the person sought to be committed, and that no less restrictive alternative exists: *Provided*, That, if in the opinion of the designated county mental health professional a minor presents an imminent likelihood of serious harm to himself or others, he may be temporarily detained for up to seventy-two hours by a licensed facility pending petition to the juvenile court for further commitment.

(c) If the juvenile court determines that commitment is clearly necessary, it will issue an order approving such petition. If the juvenile court determines that a less restrictive alternative is desirable, it may order that alternatives be followed.

(d) If a person under the age of eighteen years is committed to a state or private facility pursuant to this section, the juvenile court recommending commitment shall require a report from the facility every one hundred eighty days that sets forth such facts as the juvenile court may require. Upon receipt of the report, the juvenile court shall undertake a review of the status of such person to determine whether or not it is still clearly in the best interests of the patient that he remain in the facility. If the juvenile court determines that further commitment is not clearly in the best interests of the patient, it shall order release upon such conditions as it deems necessary.

(e) Every person under the age of eighteen shall have all the rights provided for persons eighteen years of age or over under this chapter as now or hereafter amended except those rights specifically modified by this section: *Provided*, That the juvenile court rather than the superior court shall be responsible for any proceedings. A voluntarily admitted minor over thirteen years of age shall have the right to release on the next judicial day from the date of request unless a petition is filed in juvenile court by the professional person in charge of the facility or his designee on the grounds that the juvenile is dangerous to himself or others or that it would be in the best interests of the juvenile that he remain in the facility. Furthermore, should the patient and his parent, parents, limited guardian as authorized, or guardian both request his release, he shall be immediately released unless the professional person in charge of the facility objects immediately in writing to the juvenile court on the grounds that the person is dangerous to himself or others and that it would not be in the patient's best interests to be released. Should this occur,

the juvenile court shall hold a hearing on the issue within five judicial days and determine whether the person should be released.

(f) Nothing in this section shall prohibit the professional person in charge of the facility in which the person is being treated from releasing him at any time when, in the opinion of said professional person, further commitment would no longer be in the best interests of the patient.

Whenever a person is released by the professional person in charge of a facility under this section, said person shall, in writing, notify the juvenile court which committed the person for treatment.

(4) In the case of a person eighteen years of age or over for whom a limited guardian or guardian of the person has been appointed, such application shall be made by said limited guardian or guardian, when so authorized by proper court order in the limited guardianship or guardianship proceedings. [1977 1st ex.s. c 80 § 48; 1975 1st ex.s. c 199 § 11; 1974 ex.s. c 145 § 3; 1973 2nd ex.s. c 24 § 1; 1973 1st ex.s. c 142 § 4; 1971 ex.s. c 292 § 50; 1959 c 28 § 72.23.070. Prior: 1951 c 139 § 11; 1949 c 198 § 19, part; Rem. Supp. 1949 § 6953-19, part. Formerly RCW 71.02.030.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Severability—Construction—Effective date—1973 1st ex.s. c 142: See RCW 71.05.900-71.05.930.

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

Involuntary commitment procedure: Chapter 71.05 RCW.

Mental illness: Chapter 71.05 RCW.

Chapter 72.25

NONRESIDENT MENTALLY ILL, SEXUAL PSYCHOPATHS, AND PSYCHOPATHIC DELINQUENTS

Sections

72.25.010	Deportation of aliens—Return of residents.
72.25.020	Return of nonresidents—Reciprocity— Expense—Resident of this state defined.
72.25.030	Assistance—Payment of expenses.

72.25.010 Deportation of aliens—Return of residents. It shall be the duty of the secretary of the department of social and health services, in cooperation with the United States bureau of immigration and/or the United States department of the interior, to arrange for the deportation of all alien sexual psychopaths, psychopathic delinquents, or mentally ill persons who are now confined in, or who may hereafter be committed to, any state hospital for the sexual psychopath, psychopathic delinquent, or the mentally ill in this state; to transport such alien sexual psychopaths, psychopathic delinquents, or mentally ill persons to such point or points as may be designated by the United States bureau of immigration or by the United States department of the interior; and to give written permission for the return of any resident of Washington now or hereafter confined in a hospital for the sexual psychopath, psychopathic delinquent, or the mentally ill in a territory of the United States or in a

foreign country. Mentally ill person for the purposes of this section shall be any person defined as mentally ill under RCW 72.23.010, as now or hereafter amended. [1977 1st ex.s. c 80 § 49; 1965 c 78 § 1; 1959 c 28 § 72.25.010. Prior: 1957 c 29 § 1; 1953 c 232 § 1. Formerly RCW 71.04.270.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Sexual psychopaths and psychopathic delinquents: Chapter 71.06 RCW.

72.25.020 Return of nonresidents—Reciprocity—Expense—Resident of this state defined. The secretary shall also return all nonresident sexual psychopaths, psychopathic delinquents, or mentally ill persons who are now confined in or who may hereafter be committed to a state hospital for the sexual psychopath, psychopathic delinquent, or the mentally ill in this state to the states or state in which they may have a legal residence. For the purpose of facilitating the return of such persons the secretary may enter into a reciprocal agreement with any other state for the mutual exchange of sexual psychopaths, psychopathic delinquents, or mentally ill persons now confined in or hereafter committed to any hospital for the sexual psychopath, psychopathic delinquent, or the mentally ill in one state whose legal residence is in the other, and he may give written permission for the return of any resident of Washington now or hereafter confined in a hospital for the sexual psychopath, psychopathic delinquent, or the mentally ill in another state. Such residents may be returned directly to the proper Washington state institution without further court proceedings: *Provided*, That if the superintendent of such institution is of the opinion that the returned person is not a sexual psychopath, a psychopathic delinquent, or mentally ill person he may discharge said patient: *Provided further*, That if such superintendent deems such person a sexual psychopath, a psychopathic delinquent, or mentally ill person, he shall file an application for commitment within ninety days of arrival at the Washington institution.

A person shall be deemed to be a resident of this state within the meaning of this chapter who has maintained his domiciliary residence in this state for a period of one year preceding commitment to a state institution without receiving assistance from any tax supported organization and who has not subsequently acquired a domicile in another state: *Provided*, That any period of time spent by such person while an inmate of a state hospital or state institution or while on parole, escape, or leave of absence therefrom shall not be counted in determining the time of residence in this or another state.

All expenses incurred in returning sexual psychopaths, psychopathic delinquents, or mentally ill persons from this to another state may be paid by this state, but the expense of returning residents of this state shall be borne by the state making the return. Mentally ill person for the purposes of this section shall be any person defined as mentally ill under RCW 72.23.010, as now or hereafter amended. [1977 1st ex.s. c 80 § 50; 1965 c 78 § 2; 1959 c 28 § 72.25.020. Prior: 1957 c 29 § 2; 1953 c 232 § 2. Formerly RCW 71.04.280.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

72.25.030 Assistance—Payment of expenses. For the purpose of carrying out the provisions of this chapter the secretary may employ all help necessary in arranging for and transporting such alien and nonresident sexual psychopaths, psychopathic delinquents, or mentally ill persons, and the cost and expense of providing such assistance, and all expenses incurred in effecting the transportation of such alien and nonresident sexual psychopaths, psychopathic delinquents, or mentally ill persons, shall be paid from the funds appropriated for that purpose upon vouchers approved by the department. Mentally ill person for the purposes of this section shall be any person defined as mentally ill under RCW 72.23.010, as now or hereafter amended. [1977 1st ex.s. c 80 § 51; 1965 c 78 § 3; 1959 c 28 § 72.25.030. Prior: 1957 c 29 § 3; 1953 c 232 § 3. Formerly RCW 71.04.290.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Chapter 72.29

MULTI-USE FACILITIES FOR THE MENTALLY OR PHYSICALLY HANDICAPPED OR THE MENTALLY ILL

Sections

72.29.010 Harrison Memorial Hospital property and facilities (Olympic Center for Mental Health and Mental Retardation).

72.29.010 Harrison Memorial Hospital property and facilities (Olympic Center for Mental Health and Mental Retardation). After the acquisition of Harrison Memorial Hospital, the department of social and health services is authorized to enter into contracts for the repair or remodeling of the hospital to the extent they are necessary and reasonable, in order to establish a multi-use facility for the mentally or physically handicapped or the mentally ill. The secretary of the department of social and health services is authorized to determine the most feasible and desirable use of the facility and to operate the facility in the manner he deems most beneficial to the mentally and physically handicapped, or the mentally ill, and is authorized, but not limited to programs for out-patient, diagnostic and referral, day care, vocational and educational services to the community which he determines are in the best interest of the state. [1977 1st ex.s. c 80 § 52; 1965 c 11 § 3.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Declaration of purpose: "The state facilities to provide community services to the mentally and physically deficient and the mentally ill are inadequate to meet the present demand. Great savings to the taxpayers can be achieved while helping to meet these worthwhile needs. It is therefore the purpose of this act to provide for acquisition or lease of Harrison Memorial Hospital property and facilities and the operation thereof as a multi-use facility for the mentally and physically deficient and the mentally ill." [1965 c 11 § 1.]

Authorization to acquire: "The department of institutions is authorized to acquire by purchase, lease, or lease with option to purchase,

and to accept a deed or execute a lease or lease and option to purchase in the name of the state of Washington, subject to the approval as to form by the attorney general, to that certain property located in Kitsap county and commonly known as Harrison Memorial Hospital, together with all necessary personal property, fixtures, and land." [1965 c 11 § 2.] The foregoing annotations apply to RCW 72.29.010.

Department created—Powers and duties transferred to: RCW 43.20A.030.

Chapter 72.30

INTERLAKE SCHOOL

Sections

72.30.010 Use of surplus facilities at Eastern State Hospital authorized.
72.30.020 Selection and designation of facilities—Joint use.
72.30.030 Superintendent—Appointment—Qualifications.

72.30.010 Use of surplus facilities at Eastern State Hospital authorized. The secretary of the department of social and health services is authorized to utilize at the Eastern State Hospital, surplus physical facilities as an institution for handicapped persons eligible for admission or admitted to a state institution. The institution authorized by this chapter shall be known as the "Interlake School". [1977 1st ex.s. c 80 § 53; 1967 ex.s. c 18 § 1.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

72.30.020 Selection and designation of facilities—Joint use. The secretary of the department of social and health services is authorized to designate and select such buildings and facilities and tracts of land at the Eastern State Hospital, which are surplus to the needs of the department for mentally ill persons, and which are reasonably necessary and adequate for a school for handicapped persons. The secretary shall also designate those buildings, equipment and facilities which are to be used jointly and mutually by both the Eastern State Hospital and the Interlake School for handicapped persons. [1977 1st ex.s. c 80 § 54; 1967 ex.s. c 18 § 2.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

72.30.030 Superintendent—Appointment—Qualifications. The superintendent of the Interlake School for handicapped persons shall be appointed by the secretary and shall have such administrative experience and possess such qualifications as shall be determined by the state personnel board subject to the advice and approval of the secretary. [1977 1st ex.s. c 80 § 55; 1967 ex.s. c 18 § 3.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Chapter 72.33

STATE RESIDENTIAL SCHOOLS—RESIDENTIAL PLACEMENT, ETC.

Sections

72.33.020 Definitions.

72.33.040	Superintendents—Qualifications—Powers and duties.
72.33.070	Department of social and health services to determine capacity of residential quarters.
72.33.080	Department of social and health services to aid placement in foster homes.
72.33.125	Services or facilities as alternative to state residential schools—Application—Determination of eligibility.
72.33.130	Admission to suitable facility—Commitment by court.
72.33.165	Payments for nonresidential services—Authorized.
72.33.170	Discharge procedure.
72.33.240	Review of secretary's decision—Court review.
72.33.800	Agreements to pay others for care, treatment, maintenance of developmentally disabled—Authorized—Definitions.
72.33.805	Agreements to pay others for care, treatment, maintenance of developmentally disabled—Payments by department are supplemental to payments made by developmentally disabled persons—Limitation on amount.
72.33.810	Agreements to pay others for care, treatment, maintenance of developmentally disabled—Certification of facilities.

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

(1) "Mental handicap" is a state of limited development in consequence of which the individual affected is mentally incapable of assuming those responsibilities expected of the socially adequate person such as self-direction, self-support and social participation.

(2) "Physical handicap" is a state of physical impairment in consequence of which the individual affected is physically incapable of assuming those responsibilities expected of the socially adequate person such as self-direction, self-support and social participation.

(3) "Parent" is the person or persons having the legal right to custody of a child by reason of kinship by birth or adoption.

(4) "State school" shall mean any residential school of the department established, operated and maintained by the state of Washington for the education, guidance, care, treatment and rehabilitation of handicapped persons as defined herein.

(5) "Resident of a state school" shall mean a person, whose handicapping condition requires the specialized care, treatment and educational instruction therein provided, and who has been admitted upon parental or guardian's or limited guardian's application, or found in need of residential care by proper court and duly received.

(6) "Court" shall mean the superior court of the state of Washington.

(7) "Department" shall mean the department of social and health services or its successor.

(8) "Resident of the state of Washington" shall mean a person who has acquired his domicile in this state by continuously residing within the state for a period of not less than one year before application for admission is made: *Provided*, That the residence of an unemancipated minor shall be imputed from the residence of the parents if they are living together, or from the residence of the parent with whom the child resides, and if the parental rights and responsibilities regarding a minor have been transferred by the court, then the residence of such

minor shall be imputed from the person to whom such have been awarded.

(9) "Superintendent" shall mean the superintendent of Lakeland Village, Rainier school and other like residential schools that may be hereafter established.

(10) "Custody" shall mean immediate physical attendance, retention and supervision.

(11) "Placement" shall mean an extramural status for the resident's best interests granted after reasonable notice and consultation with the parents or guardian or limited guardian and such resident.

(12) "Discharge" shall mean the relinquishment by the state of all rights and responsibilities it may have acquired by reason of the acceptance for admission of any resident.

(13) "Residential placement" is any out-of-home placement providing domiciliary type care among other services for which the state makes payment in whole or in part including, but not limited to, state residential schools, group homes, group training homes, boarding homes and nursing homes, but does not include placement in a state juvenile or adult correctional facility without consultation as provided for in RCW 72.33.160.

(14) "Domiciliary care services" shall mean the furnishing of necessary room, board, laundry, clothing, housekeeping, and other personal care services.

(15) "Secretary" means the secretary of social and health services or his designee. [1977 1st ex.s. c 80 § 56; 1975 1st ex.s. c 246 § 1; 1973 1st ex.s. c 154 § 101; 1959 c 28 § 72.33.020. Prior: 1957 c 102 § 2.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

72.33.040 Superintendents—Qualifications—Powers and duties. The superintendent of a state school appointed after June 12, 1957 shall be a person of good character, and either a physician licensed to practice in the state of Washington or has attained a minimum of a master's degree from an accredited college or university in psychology, social science, or education, and in addition shall have had suitable experience in an administrative or professional capacity in the residential care, treatment and training of handicapped persons.

The superintendent shall have custody of all residents and control of the medical, educational, therapeutic and dietetic treatment of all persons resident in such state school: *Provided*, That the superintendent shall cause surgery to be performed on any resident only upon gaining the consent of a parent, guardian, or limited guardian as authorized, except, if after reasonable effort to locate the parents, guardian, or limited guardian as authorized, and the health of such resident is certified by the attending physician to be jeopardized unless such surgery is performed, the required consent shall not be necessary.

The superintendent shall have control of the internal government and economy of the state school and shall appoint and direct all subordinate officers and employees: *Provided*, That the powers and duties conferred upon the superintendent shall be subject to the rules and

regulations of the department and the state personnel board.

The superintendent shall have authority to engage the residents of the state school in beneficial work programs but shall not abuse such therapy by excessive hours or for purposes of discipline or punishment. [1977 1st ex.s. c 80 § 62; 1969 c 56 § 3; 1959 c 28 § 72.33.040. Prior: 1957 c 102 § 4. (i) 1937 c 10 § 19; RRS § 4679-19. (ii) 1937 c 10 § 7; RRS § 4679-7.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Superintendent, general provisions: RCW 72.01.060.

72.33.070 Department of social and health services to determine capacity of residential quarters. The department of social and health services shall determine by the application of proper criteria the maximum number of persons to reside in the residential quarters of the state schools and the superintendent shall adhere to such standards unless written permission is granted by the department to exceed such rated capacities. [1977 1st ex.s. c 80 § 63; 1959 c 28 § 72.33.070. Prior: 1957 c 102 § 7.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

72.33.080 Department of social and health services to aid placement in foster homes. The department of social and health services shall aid the superintendents of the state schools in the placement of residents in suitable foster homes, those to be assisted and the method thereof to be defined in a mutually approved interdepartmental agreement. [1977 1st ex.s. c 80 § 64; 1959 c 28 § 72.33.080. Prior: 1957 c 102 § 8.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Department of social and health services: Chapter 43.20A.

72.33.125 Services or facilities as alternative to state residential schools—Application—Determination of eligibility. (1) In order to provide ongoing points of contact with the handicapped individual and his family so that they may have a place of entry for state services and return to the community as the need may appear; to provide a link between those individuals and services of the community and state operated services so that the individuals with handicapping conditions and their families may have access to the facilities best suited to them throughout the life of the individual; to offer viable alternatives to state residential school admission; and to encourage the placement of persons from state residential schools, the secretary of social and health services or his designee, pursuant to rules and regulations of the department, shall receive applications of persons for care, treatment, hospitalization, support, training, or rehabilitation provided by state programs or services for the handicapped. Written applications shall be submitted in accordance with the following requirements:

(a) In the case of a minor person, the application shall be made by his parents or by the parent, guardian, limited guardian where so authorized, person or agency

legally entitled to custody, which application shall be in the form and manner required by the department; and

(b) In the case of an adult person, the application shall be made by such person, by his or her guardian, or limited guardian where so authorized, or agency legally entitled to custody, which application shall be in the form and manner required by the department.

(2) Upon receipt of the written application the secretary shall determine if the individual to receive services has a handicapping condition as defined in RCW 72.33.020 qualifying him for services. In order to determine eligibility for services, the secretary may require a supporting affidavit of a physician or a clinical psychologist, or one of each profession, certifying that the individual is handicapped as herein defined.

(3) After determination of eligibility because of a handicapping condition, the secretary shall determine the necessary services to be provided for the individual. Individuals may be temporarily admitted, for a period not to exceed thirty days, to departmental residential facilities for observation prior to determination of needed services, where such observation is necessary to determine the extent and necessity of services to be provided. [1977 1st ex.s. c 80 § 57; 1975 1st ex.s. c 246 § 2.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

72.33.130 Admission to suitable facility—Commitment by court. In the event a minor person under the age of eighteen years shall be found under the juvenile court law to be "dependent" or "delinquent" and handicapped as herein defined, and that placement for care, custody, treatment, or education in a state school is to the minor's welfare, the secretary shall receive such minor upon commitment from the superior court pursuant to such terms and conditions as may therein be set forth for placement by the department in a facility most appropriate to his needs, subject to the provisions of RCW 72.33.070. [1977 1st ex.s. c 80 § 58; 1975 1st ex.s. c 246 § 3; 1959 c 28 § 72.33.130. Prior: 1957 c 102 § 13. (i) 1913 c 173 § 2; RRS § 4660. (ii) 1937 c 10 § 9; RRS § 4679-9.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Juvenile courts and juvenile delinquents: Title 13 RCW.

72.33.165 Payments for nonresidential services—Authorized. The secretary of social and health services is authorized to make payments for nonresidential services which exceed the cost of caring for an average individual at home, and which are reasonably necessary for the care, treatment, maintenance, support, and training of handicapped persons, upon application pursuant to RCW 72.33.125. The department shall adopt rules and regulations determining the extent and type of care and training for which the department will pay all or a portion of the costs. [1977 1st ex.s. c 80 § 59; 1975 1st ex.s. c 246 § 11.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

72.33.170 Discharge procedure. Whenever in the judgment of the secretary a person no longer needs the services provided by the department for handicapped persons, he or she may be discharged from services after reasonable notice and consultation with the person to be discharged and any available parent, guardian, limited guardian, or other court appointed personal representative. [1977 1st ex.s. c 80 § 60; 1975 1st ex.s. c 246 § 7; 1959 c 28 § 72.33.170. Prior: 1957 c 102 § 17.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

72.33.240 Review of secretary's decision—Court review. Any parent, guardian, limited guardian, or other court appointed personal representative feeling aggrieved by an adverse decision pertaining to admission, placement, or discharge of his ward may apply to the secretary in writing within thirty days of notification of the decision for a review and reconsideration of the decision. An administrative hearing shall be held within ten days from the date of receipt of the written request for review. In the event of an unfavorable ruling by the secretary, such parent, guardian, limited guardian, or other court appointed personal representative may institute proceedings in the superior court of the state of Washington in the county of residence of such parent or guardian, otherwise in Thurston county, and have such decision reviewed and its correctness, reasonableness, and lawfulness decided in an appeal heard as in initial proceeding on an original application. Said parent, guardian, limited guardian, or other court appointed personal representative shall have the right to appeal from the decision of the superior court to the supreme court or the court of appeals of the state of Washington, as in civil cases. [1977 1st ex.s. c 80 § 61; 1975 1st ex.s. c 246 § 10; 1971 c 81 § 135; 1959 c 28 § 72.33.240. Prior: 1957 c 102 § 24.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

72.33.800 Agreements to pay others for care, treatment, maintenance of developmentally disabled—Authorized—Definitions. The secretary of the department of social and health services is hereby authorized to enter into agreements with any person, or with any person, corporation or association operating a day training center or group training home or a combination thereof approved by the department, for the payment of all, or a portion of the cost of the care, treatment, maintenance, support and training of developmentally disabled persons.

For the purpose of RCW 72.33.800 through 72.33.820, as now or hereafter amended, the terms "day training center" and "group training home" shall have the following meanings:

(1) "Day training center" shall mean a facility equipped, supervised, managed and operated at least three days per week by any person, association or corporation on a nonprofit basis for the day-care, treatment, training and maintenance of developmentally disabled persons, and approved in accordance with RCW 72.33.800 through 72.33.820, as now or hereafter amended,

and the standards of the department of social and health services as set forth in the rules and regulations promulgated by the secretary.

(2) "Group training home" shall mean a facility equipped, supervised, managed and operated on a full time basis by any person, association or corporation on a nonprofit basis for the full time care, treatment, training and maintenance of developmentally disabled persons, and approved in accordance with RCW 72.33.800 through 72.33.820, as now or hereafter amended, and the standards of the department of social and health services as set forth in rules and regulations promulgated by the secretary. [1977 1st ex.s. c 80 § 65; 1974 ex.s. c 71 § 9; 1965 c 34 § 1; 1961 c 251 § 1.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Severability—1974 ex.s. c 71: See note following RCW 71.20.015.

State and local services for mentally retarded and developmentally disabled: Chapter 71.20 RCW.

72.33.805 Agreements to pay others for care, treatment, maintenance of developmentally disabled—Payments by department are supplemental to payments made by developmentally disabled persons—Limitation on amount. All payments made by the secretary of the department of social and health services pursuant to RCW 72.33.800 through 72.33.820, as now or hereafter amended, shall be, insofar as possible, supplementary to payments to be made to a day training center or group training home or combination thereof by the developmentally disabled persons resident therein. Payments made by the secretary in accordance with the authority of RCW 72.33.800 through 72.33.820, as now or hereafter amended, shall not exceed actual costs for the care, treatment, support, maintenance and training of any developmentally disabled person whether at a day training center or group training home or combination thereof or otherwise. [1977 1st ex.s. c 80 § 66; 1974 ex.s. c 71 § 10; 1965 c 34 § 2; 1961 c 251 § 2.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Severability—1974 ex.s. c 71: See note following RCW 71.20.015.

72.33.810 Agreements to pay others for care, treatment, maintenance of developmentally disabled—Certification of facilities. Any person, corporation, or association may make application to the secretary of the department of social and health services for approval and certification of the applicant's facility as a day training center, or a group training home for developmentally disabled persons or a combination of both. The secretary may either grant or deny certification or revoke certification previously granted after investigation of the applicant's facilities, to ascertain whether or not such facilities are adequate for the health, safety and the care, treatment, maintenance, training and support of developmentally disabled persons, in accordance with standards as set forth in rules and regulations promulgated by the secretary. [1977 1st ex.s. c 80 § 67; 1974 ex.s. c 71 § 11; 1961 c 251 § 3.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Severability—1974 ex.s. c 71: See note following RCW 71.20.015.

Chapter 72.36

SOLDIERS' AND VETERANS' HOMES

Sections

72.36.020	Superintendents—Appointment.
72.36.030	Who may be admitted.
72.36.035	Definitions.
72.36.040	Colony established—Who may be admitted.
72.36.045	Soldiers' home and colony—Veterans' home— Maintenance defined.
72.36.055	Domiciliary and nursing care to be provided.
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72.36.080	Who may be admitted to veterans' home.
72.36.090	Hobby promotion.
72.36.120	Soldiers' home revolving fund—Income and dis- bursements—Expenditure and revenue control.
72.36.130	Veterans' home revolving fund—Income and dis- bursements—Expenditure and revenue control.

72.36.020 Superintendents—Appointment. The director of the department of veterans affairs shall appoint a superintendent for the state soldiers' home and colony, and a superintendent for the Washington veterans' home, who, with the consent of the director, may be styled, respectively, "commandant of the home". The superintendent shall exercise management and control of the institution in accordance with policies and/or procedures promulgated by the director of the department of veterans affairs and rules and regulations of the department. [1977 c 31 § 2; 1959 c 28 § 72.36.020. Prior: 1890 p 271 § 7; RRS § 10728.]

Superintendent, general provisions: RCW 72.01.060.

72.36.030 Who may be admitted. All honorably discharged veterans who have served the United States government in any of its wars, and members of the state militia disabled while in the line of duty, may be admitted to the state soldiers' home at Orting under such rules and regulations as may be adopted by the department: *Provided*, That such applicants have been actual bona fide residents of this state at the time of their application, and are indigent and unable to support themselves: *Provided further*, That the surviving spouses of all veterans and members of the state militia disabled while in the line of duty, who were members of a soldiers' home or colony or veterans' home in this state or entitled to admission thereto at the time of death, and surviving spouses of all such veterans and members of the state militia, who would have been entitled to admission to a soldiers' home or colony or veterans' home in this state at the time of death, but for the fact that they were not indigent and unable to earn a support for themselves and families, which spouses have since the death of their husbands or wives, become indigent and unable to earn a support for themselves shall be admitted to such home: *Provided further*, That such spouses are not less than fifty years of age and were married and living with their husbands or wives on or before three years prior to the date of their application, and have not been married

since the decease of their husbands or wives to any person not a member of a soldiers' home or colony or veterans' home in this state or entitled to admission thereto: *And provided, further*, That sufficient facilities and resources are available to accommodate such applicant. [1977 1st ex.s. c 186 § 1; 1975 c 13 § 1; 1959 c 28 § 72.36.030. Prior: 1915 c 106 § 1; 1911 c 124 § 1; 1905 c 152 § 1; 1901 c 167 § 2; 1890 p 270 § 2; RRS § 10729.]

Severability—1977 1st ex.s. c 186: "If any provision of this 1977 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." [1977 1st ex.s. c 186 § 12.] This applies to RCW 72.36.035, 72.36.045, 72.36.055, 72.36.120, and 72.36.130 and to the 1977 amendments to RCW 72.36.030, 72.36.040, 72.36.060, 72.36.070, 72.36.080, and 72.36.090.

72.36.035 Definitions. For purposes of this chapter, unless the context clearly indicates otherwise, "actual bona fide residents of this state" shall mean persons who have a domicile in the state of Washington immediately prior to application for membership in the soldiers' home or colony or veterans' home. The term "domicile" shall mean a person's true, fixed, and permanent home and place of habitation, and shall be the place where the person intends to remain, and to which the person expects to return when the person leaves without intending to establish a new domicile elsewhere. [1977 1st ex.s. c 186 § 11.]

Severability—1977 1st ex.s. c 186: See note following RCW 72.36.030.

72.36.040 Colony established—Who may be admitted. There is hereby established what shall be known as the "Colony of the State Soldiers' Home." All of the following persons who reside within the limits of Orting school district and have been actual bona fide residents of this state at the time of their application and who have personal property of less than one thousand five hundred dollars and/or a monthly income insufficient to meet their needs outside of residence in such colony and soldiers' home as determined by standards of the department of veterans' affairs, may be admitted to membership in said colony under such rules and regulations as may be adopted by the department.

(1) All honorably discharged veterans who have served in the armed forces of the United States during wartime, members of the state militia disabled while in the line of duty, and their respective spouses with whom they have lived for three years prior to application for membership in said colony. Also, the spouse of any such veteran or disabled member of the state militia is eligible for membership in said colony, if such spouse is the widow or widower of a veteran who was a member of a soldiers' home or colony in this state or entitled to admission thereto at the time of death: *Provided*, That such veterans and members of the state militia shall, while they are members of said colony, be living with their said spouses.

(2) The spouses of all veterans who were members of a soldiers' home or colony in this state or entitled to admission thereto at the time of death, and the spouses of all veterans who would have been entitled to admission to a soldiers' home or colony in this state at the

time of death but for the fact that they were not indigent and unable to support themselves and families, which spouses have since the death of their said husbands or wives become indigent and unable to earn a support for themselves: *Provided*, That such spouses are not less than fifty years of age and have not been married since the decease of their said husbands or wives to any person not a member of a soldiers' home or colony in this state or entitled to admission thereto. Any resident of said colony may be admitted to the state soldiers' home for temporary care when requiring treatment. [1977 1st ex.s. c 186 § 2. Prior: 1973 1st ex.s. c 154 § 102; 1973 c 101 § 1; 1959 c 235 § 1; 1959 c 28 § 72.36-.040; prior: 1947 c 190 § 1; 1925 ex.s. c 74 § 1; 1915 c 106 § 2; Rem. Supp. 1947 § 10730.]

Severability—1977 1st ex.s. c 186: See note following RCW 72.36.030.

72.36.045 Soldiers' home and colony—Veterans' home—Maintenance defined. In the maintenance of the Washington soldiers' home and colony and the Washington veterans' home by the state through the department of veterans' affairs, such maintenance shall include, but not be limited to, the provision of members' room and board, medical and dental care, physical and occupational therapy, and recreational activities, with the necessary implementing transportation, equipment, and personnel therefor. [1977 1st ex.s. c 186 § 10.]

Severability—1977 1st ex.s. c 186: See note following RCW 72.36.030.

72.36.055 Domiciliary and nursing care to be provided. The soldiers' home and colony at Orting and the Washington veterans' home at Retsil shall provide both domiciliary and nursing care. The level of domiciliary members shall remain consistent with the facilities available to accommodate those members: *Provided*, That nothing in this section shall preclude the department from moving residents between nursing and domiciliary care in order to better utilize facilities and maintain the appropriate care for the members. [1977 1st ex.s. c 186 § 6.]

Severability—1977 1st ex.s. c 186: See note following RCW 72.36.030.

72.36.060 Federal funds. The state treasurer is authorized to receive any and all moneys appropriated or paid by the United States under the act of congress entitled "An Act to provide aid to state or territorial homes for disabled soldiers and sailors of the United States," approved August 27, 1888, or under any other act or acts of congress for the benefit of such homes. Such moneys shall be deposited in the general fund and shall be expended for the maintenance of the soldiers' home and veterans' home. [1977 1st ex.s. c 186 § 3; 1959 c 28 § 72.36.060. Prior: 1897 c 67 § 1; RRS § 10735.]

Severability—1977 1st ex.s. c 186: See note following RCW 72.36.030.

72.36.070 Washington veterans' home. There shall be established and maintained in this state a branch of

the state soldiers' home, under the name of the "Washington veterans' home," which branch shall be a home for honorably discharged veterans who have served the United States government in any of its wars, members of the state militia disabled while in the line of duty, and who are bona fide citizens of the state, and also the spouses of such veterans. [1977 1st ex.s. c 186 § 4; 1959 c 28 § 72.36.070. Prior: 1907 c 156 § 1; RRS § 10733.]

Severability—1977 1st ex.s. c 186: See note following RCW 72.36.030.

72.36.080 Who may be admitted to veterans' home. All of the following persons who have been actual bona fide residents of this state at the time of their application, and who are indigent and unable to earn a support for themselves and families may be admitted to the Washington veterans' home under such rules and regulations as may be adopted by the director: *Provided*, That sufficient facilities and resources are available to accommodate such person:

(1) All honorably discharged veterans of the armed forces of the United States who have served the United States in any of its wars, and members of the state militia disabled while in the line of duty, and the spouses of such veterans, and members of the state militia: *Provided*, That such spouse was married to and living with such veteran on or before three years prior to the date of application for admittance, or, if married to him or her since that date, was also a member of a soldiers' home or colony or veterans' home in this state or entitled to admission thereto.

(2) The spouses of all soldiers, sailors, and marines and members of the state militia disabled while in the line of duty, who were members of a soldiers' home or colony or veterans' home in this state or entitled to admission thereto at the time of death, and spouses of all such soldiers, sailors, and marines and members of the state militia, who would have been entitled to admission to a soldiers' home or colony or veterans' home in this state at the time of death but for the fact that they were not indigent and unable to earn a support for themselves and families, which spouses have since the death of their husbands or wives, become indigent and unable to earn a support for themselves: *Provided*, That such spouses are not less than fifty years of age and were married and living with their husbands or wives on or before three years prior to the date of their application, and have not been married since the decease of their husbands or wives to any person not a member of a soldiers' home or colony or veterans' home in this state or entitled to admission thereto. [1977 1st ex.s. c 186 § 5; 1975 c 13 § 2; 1973 1st ex.s. c 154 § 104; 1959 c 28 § 72.36.080. Prior: 1955 c 104 § 1; 1927 c 276 § 2; 1915 c 106 § 4; RRS § 10732.]

Severability—1977 1st ex.s. c 186: See note following RCW 72.36.030.

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Commitment to veterans administration or other federal agency: RCW 73.36.165.

72.36.090 Hobby promotion. The superintendents of the state soldiers' home and colony and the state veterans' home are hereby authorized to:

(1) Institute programs of hobby promotion designed to improve the general welfare and mental condition of the persons under their supervision;

(2) Provide for the financing of these programs by grants from funds in the superintendent's custody through operation of canteens and exchanges at such institutions;

(3) Limit the hobbies sponsored to projects which will, in their judgment, be self-liquidating or self-sustaining. [1977 1st ex.s. c 186 § 9; 1959 c 28 § 72.36.090. Prior: 1949 c 114 § 1; Rem. Supp. 1949 § 10736-1.]

Severability—1977 1st ex.s. c 186: See note following RCW 72.36.030.

72.36.120 Soldiers' home revolving fund—Income and disbursements—Expenditure and revenue control. All income of members of the soldiers' home in excess of allowable income shall be deposited in the soldiers' home revolving fund as established in section 55, chapter 269, Laws of 1975 1st ex. sess. (uncodified, and herein continued and reenacted).

(1) Allowable income shall be defined by the rules and regulations adopted by the department: *Provided*, That the allowable income of members accepted for membership shall not be decreased below one hundred sixty dollars per month during periods that such members are resident thereat.

(2) Disbursements from the soldiers' home revolving fund shall be for the benefit and welfare of all members of the soldiers' home and such disbursements shall be on the authorization of the superintendent or his authorized representative after approval has been received from a duly constituted body representative of the members.

(3) In order to maintain an effective expenditure and revenue control, the soldiers' home revolving fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation shall be required to permit expenditures from such funds. [1977 1st ex.s. c 186 § 7.]

Severability—1977 1st ex.s. c 186: See note following RCW 72.36.030.

72.36.130 Veterans' home revolving fund—Income and disbursements—Expenditure and revenue control. All income of members of the veterans' home in excess of allowable income shall be deposited in the veterans' home revolving fund as established in section 55, chapter 269, Laws of 1975 1st ex. sess. (uncodified, and herein continued and reenacted).

(1) Allowable income shall be defined by the rules and regulations adopted by the department. However, the allowable income of members accepted for membership shall not be decreased below one hundred sixty dollars per month during periods that such members are resident thereat.

(2) Disbursements from the veterans' home revolving fund shall be for the benefit and welfare of all members of the Washington veterans' home and such disbursements shall be on the authorization of the superintendent of the home or his duly authorized representative

after approval has been received from a duly constituted body representative of the members.

(3) In order to maintain an effective expenditure and revenue control, the veterans' home revolving fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation shall be required to permit expenditures from such funds. [1977 1st ex.s. c 186 § 8.]

Severability—1977 1st ex.s. c 186: See note following RCW 72.36.030.

Chapter 72.40

STATE SCHOOLS FOR BLIND, DEAF, SENSORY HANDICAPPED

Sections

72.40.040 Who may be admitted.

72.40.040 Who may be admitted. The schools shall be free to residents of the state between the ages of six and twenty-one years, and who are blind or deaf, or otherwise sensory handicapped, and who are free from loathsome or contagious diseases: *Provided*, That children under the age of six, who are otherwise qualified may be admitted to the school, if in the discretion of the superintendent they are proper persons to receive the training given in the school and the facilities are adequate for proper care, education, and training: *Provided further*, That students over the age of twenty-one years, who are otherwise qualified may be retained at the school, if in the discretion of the superintendent in consultation with the faculty they are proper persons to receive further training given at the school and the facilities are adequate for proper care, education, and training. [1977 1st ex.s. c 80 § 68; 1969 c 39 § 1; 1959 c 28 § 72.40.040. Prior: 1955 c 260 § 1; 1909 c 97 p 258 § 3; 1903 c 140 § 1; 1897 c 118 § 229; 1886 p 136 § 2; RRS § 4647.]

Purpose—**Intent**—**Severability**—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Chapter 72.60

INSTITUTIONAL INDUSTRIES COMMISSION

Sections

72.60.280 Reports to governor.

72.60.280 Reports to governor. The secretary shall prepare annually a report to the governor, which report shall contain general information concerning institutional industrial and agricultural programs and any further information requested by the governor. [1977 c 75 § 86; 1971 ex.s. c 189 § 12; 1959 c 273 § 5.]

Chapter 72.70

WESTERN INTERSTATE CORRECTIONS COMPACT

Sections

72.70.010 Compact enacted—Provisions.

72.70.010 Compact enacted—Provisions. The Western Interstate Corrections Compact as contained herein is hereby enacted into law and entered into on behalf of this state with any and all other states legally joining therein in a form substantially as follows:

WESTERN INTERSTATE CORRECTIONS COMPACT

ARTICLE I—Purpose and Policy

The party states, desiring by common action to improve their institutional facilities and provide programs of sufficiently high quality for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society. The purpose of this compact is to provide for the development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders.

ARTICLE II—Definitions

As used in this compact, unless the context clearly requires otherwise:

(a) "State" means a state of the United States, or, subject to the limitation contained in Article VII, Guam.

(b) "Sending state" means a state party to this compact in which conviction was had.

(c) "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction was had.

(d) "Inmate" means a male or female offender who is under sentence to or confined in a prison or other correctional institution.

(e) "Institution" means any prison, reformatory or other correctional facility except facilities for the mentally ill or mentally handicapped in which inmates may lawfully be confined.

ARTICLE III—Contracts

(a) Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

1. Its duration.

2. Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.

3. Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom.

4. Delivery and retaking of inmates.

5. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

(b) Prior to the construction or completion of construction of any institution or addition thereto by a party state, any other party state or states may contract therewith for the enlargement of the planned capacity of the institution or addition thereto, or for the inclusion therein of particular equipment or structures, and for the reservation of a specific percentum of the capacity of the institution to be kept available for use by inmates of the sending state or states so contracting. Any sending state so contracting may, to the extent that monies are legally available therefor, pay to the receiving state, a reasonable sum as consideration for such enlargement of capacity, or provision of equipment or structures, and reservation of capacity. Such payment may be in a lump sum or in installments as provided in the contract.

(c) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

ARTICLE IV—Procedures and Rights

(a) Whenever the duly constituted judicial or administrative authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary in order to provide adequate quarters and care or desirable in order to provide an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the ending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

(c) Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III.

(d) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have the benefit of his or her record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

(e) All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be cared for and treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.

(f) Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state. Costs of records made pursuant to this subdivision shall be borne by the sending state.

(g) Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

(h) Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.

(i) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

ARTICLE V—Acts Not Reviewable In Receiving State; Extradition

(a) Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is

suspected of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

(b) An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

ARTICLE VI—Federal Aid

Any state party to this compact may accept federal aid for use in connection with an institution or program, the use of which is or may be affected by this compact or any contract pursuant thereto and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision; provided that if such program or activity is not part of the customary correctional regimen the express consent of the appropriate official of the sending state shall be required therefor.

ARTICLE VII—Entry Into Force

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two contiguous states from among the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming. For the purposes of this article, Alaska and Hawaii shall be deemed contiguous to each other; to any and all of the states of California, Oregon and Washington; and to Guam. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states, or any other state contiguous to at least one party state upon similar action by such state. Guam may become party to this compact by taking action similar to that provided for joinder by any other eligible party state and upon the consent of Congress to such joinder. For the purposes of this article, Guam shall be deemed contiguous to Alaska, Hawaii, California, Oregon and Washington.

ARTICLE VIII—Withdrawal and Termination

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until two years after the notices provided in said statute have been sent.

Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

ARTICLE IX—Other Arrangements Unaffected

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a non-party state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

ARTICLE X—Construction and Severability

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating 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 participating therein, 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. [1977 1st ex.s. c 80 § 69; 1959 c 287 § 1.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Title 73

VETERANS AND VETERANS' AFFAIRS

Chapters

73.04	General provisions.
73.24	Burial.
73.28	Arms to sons of veterans.

Chapter 73.04

GENERAL PROVISIONS

Sections

73.04.130	Director of department of veterans affairs authorized to act as executor, administrator, guardian or federal fiduciary of veteran's estate—Appointment.
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73.04.130 Director of department of veterans affairs authorized to act as executor, administrator, guardian or federal fiduciary of veteran's estate—Appointment. The director of the department of veterans affairs or his designee is authorized to act as executor under the last

[1977 RCW Supp—page 724]

will, or as administrator of the estate of any deceased veteran, or as the guardian or duly appointed federal fiduciary of the estate of any insane or incompetent veteran, or as guardian or duly appointed federal fiduciary of the estate of any person who is a bona fide resident of the state of Washington and who is certified by the veterans' administration as having money due from the veterans' administration, the payment of which is dependent upon the appointment of a guardian or other type fiduciary. No fee shall be allowed or paid to the director or his designee for acting as executor, administrator, guardian or fiduciary, or to any attorney for the director or his designee.

The director or his designee, or any other interested person may petition the appropriate court for the appointment of the director or his designee. Any such petition by the director or his designee shall be without cost and without fee. If appointed, the director or his designee may serve without bond. This section shall not affect the prior right to act as administrator of a veterans' estate of such persons as are denominated in RCW 11.28.120 (1) and (2), nor shall this section affect the appointment of executor made in the last will of any veteran, nor shall this section apply to estates larger than seventy-five hundred dollars. [1977 c 31 § 3; 1974 ex.s. c 63 § 1; 1972 ex.s. c 4 § 1.]

Chapter 73.24

BURIAL

Sections

73.24.030	Authorized burials in plot.
73.24.040	Repealed.

73.24.030 Authorized burials in plot. The said plot shall be available, to the extent such space is available, without charge or cost for the burial of persons who have served in the army, navy, or marine corps in the United States, in the Spanish-American war, Philippine insurrection, or the Chinese Relief Expedition, or who served in any said branches of said service at any time between April 21, 1898 and July 4, 1902 and any veteran as defined in RCW 41.04.005. [1977 c 31 § 4; 1937 c 36 § 2; RRS § 10758-2.]

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

Chapter 73.28

ARMS TO SONS OF VETERANS

Sections

73.28.010	through 73.28.040 Repealed.
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73.28.010 through 73.28.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Title 74
PUBLIC ASSISTANCE**

Chapters

- 74.04 General provisions—Administration.
- 74.09 Medical care.
- 74.13 Child welfare services.
- 74.15 Agencies—Children, expectant mothers, developmentally disabled—Care, placement.
- 74.16 Aid to blind persons—Washington state commission for the blind.
- 74.17 Blind persons—Vending facilities in public buildings.
- 74.38 Senior citizens services act.

Chapter 74.04

GENERAL PROVISIONS—ADMINISTRATION

Sections

- 74.04.266 General assistance—Earned income exemption to be established for unemployable persons.

74.04.266 General assistance—Earned income exemption to be established for unemployable persons. In determining need for general assistance for unemployable persons as defined in RCW 74.04.005(6)(a), the department may by rule and regulation establish a monthly earned income exemption in an amount not to exceed the exemption allowable under disability programs authorized in Title XVI of the federal social security act. [1977 1st ex.s. c 215 § 1.]

**Chapter 74.09
MEDICAL CARE**

Sections

- 74.09.140 Repealed.
- 74.09.550 Nursing homes, reports, audits, rates—Legislative declaration.
- 74.09.560 Nursing homes—Annual cost reports to be audited by department of social and health services.
- 74.09.570 Audit disallowances—Procedures—Availability of certain information on nursing homes.
- 74.09.580 Nursing home payment system—Individually-based and class-based rates—Refunds.
- 74.09.590 Payment rates—Conditions.
- 74.09.600 Post audit examinations by state auditor.

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

74.09.550 Nursing homes, reports, audits, rates—Legislative declaration. The legislature finds that reliability of financial information is dependent upon the application of generally accepted accounting principles and adherence to published rules of the department of social and health services. To assure that these accounting principles and rules are being applied to reports submitted by nursing homes, the legislature finds it necessary to require certain reports submitted by nursing homes to be audited by the department of social and

health services in the manner prescribed in RCW 74.09.560 and 74.09.570. [1977 1st ex.s. c 260 § 1.]

Severability—1977 1st ex.s. c 260: "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." [1977 1st ex.s. c 260 § 8.] This applies to RCW 74.09.550 through 74.09.600.

74.09.560 Nursing homes—Annual cost reports to be audited by department of social and health services. All annual cost reports submitted to the state by a nursing home shall be audited annually through a field audit conducted by auditors under contract with or employed by the department of social and health services. The secretary of the department of social and health services shall establish an audit manual and program which shall require that all audits, conducted either through contract or by department employees:

(1) Comply with generally accepted auditing standards prescribed by the American institute of certified public accountants;

(2) Include a written opinion as to whether allowable costs included in the report are presented fairly in accordance with generally accepted accounting principles and department rules, and whether, in all material respects, allowable costs are documented, reasonable, and related to patient care;

(3) Are conducted by accounting firms or auditors who, during the period of the auditors' professional engagement or employment and during the period covered by the financial statements, do not have nor are committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of a nursing home in this state;

(4) Are conducted by accounting firms or auditors who, as a condition of the contract or employment, are not allowed to have nursing home clients during or within two years of termination of their contract or employment;

(5) Are conducted by auditors who are otherwise independent as determined by the standards of independence established by the American institute of certified public accountants;

(6) Are supervised by a certified public accountant;

(7) Are completed within one year after the annual cost report is submitted by the nursing home; and

(8) Provide to the nursing home complete written interpretations which explain in detail the application of all relevant contract provisions, regulations, auditing standards, rate formulae, and departmental policies, with explanations and examples, and which are sufficient to permit the nursing home to calculate with reasonable certainty those costs which are allowable and the settlement to which the nursing home is entitled. [1977 1st ex.s. c 260 § 2.]

Severability—1977 1st ex.s. c 260: See note following RCW 74.09.550.

74.09.570 Audit disallowances—Procedures—Availability of certain information on nursing homes. (1) The department of social and health services shall prepare a written summary of any audit disallowance which

exceeds five hundred dollars. Where the department pays rates or proposes settlement of accounts at less than the nursing home's actual reported costs, which have been verified by audit, the department shall for each cost center, as determined under department rules, advise the nursing home management of the rules and regulations justifying reimbursement at less than actual cost. Where the nursing home is pursuing judicial or administrative remedies in good faith regarding reimbursement settlement issues the department shall not withhold from the nursing home current payment amounts the department claims to be due from the nursing home.

(2) All financial reports and information submitted by nursing homes to the department of social and health services and all final audit narratives and summaries reviewing the submitted material shall be available for public inspection. By December 31, 1979, all nursing homes shall submit annual cost reports based on their federal tax year, which shall coincide with a common fiscal year as determined by the secretary of the department of social and health services.

(3) The department shall, without identifying individual nursing homes, make available to the public full information regarding its cost-finding and rate-setting methodology for nursing home care. The information shall include, but not necessarily be limited to, the following:

(a) Ranges, averages, and median costs for all cost centers;

(b) Departmental budget projections which reflect probable economic trends;

(c) Computer models and programs, with related documentation sufficient to explain them, used or proposed by the department to evaluate cost reports, establish cost projections, establish rates, or, in whole or in part, determine settlements; and

(d) All raw data relied upon by the department for any such cost-finding or rate-setting activities.

The department shall, prior to April 1 of each year, file with the senate ways and means and house appropriations committees, and make available to the public, a comprehensive report concerning all of the above matters. [1977 1st ex.s. c 260 § 3.]

Severability—1977 1st ex.s. c 260: See note following RCW 74.09.550.

74.09.580 Nursing home payment system—Individually-based and class-based rates—Refunds. The nursing home payment system under this chapter shall provide for individually-based or class-based rates which shall be the maximum reimbursement for each nursing home for the period for which the rates are assigned. Operators of nursing homes shall refund all portions of payments received which exceed actual audited costs and all portions of payments received which are attributable to unreasonable or nonallowable costs as determined by federal or state regulations. [1977 1st ex.s. c 260 § 4.]

Severability—1977 1st ex.s. c 260: See note following RCW 74.09.550.

74.09.590 Payment rates—Conditions. Payment rates shall:

(1) Not be set lower prospectively than the level which may reasonably be expected to reimburse in full for actual allowable costs under federal regulations for a nursing home which is economically and efficiently operated;

(2) Realistically take into account economic conditions and trends during the time period covered by the rates;

(3) Be at least annually redetermined;

(4) Permit as allowable those expenses necessary to meet all items of expense which operators of nursing homes must incur to provide federally defined skilled or intermediate care services;

(5) Meet the reasonable cost of patient assessment activity as required by the department; and

(6) Meet the reasonable cost of accounting requirements.

Reasonable costs shall be determined independently of the level of funding available, in accordance with federal regulations and guidelines. [1977 1st ex.s. c 260 § 5.]

Severability—1977 1st ex.s. c 260: See note following RCW 74.09.550.

74.09.600 Post audit examinations by state auditor. Nothing in this chapter shall preclude the state auditor from conducting post audit examinations of public funds pursuant to RCW 43.09.330 or other applicable law. [1977 1st ex.s. c 260 § 6.]

Severability—1977 1st ex.s. c 260: See note following RCW 74.09.550.

Chapter 74.13

CHILD WELFARE SERVICES

Sections

74.13.020 Definitions—"Child", "child welfare services" (Effective July 1, 1978.)

74.13.031 Duties of department—Crisis intervention services—Accepting juveniles for temporary residential care or alternative residential placement—Establishment of child welfare and day care advisory committee—Duty of juvenile court. (Effective July 1, 1978.)

74.13.020 Definitions—"Child", "child welfare services". (Effective July 1, 1978.) As used in Title 74 RCW, child welfare services shall be defined as public social services including adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:

(1) Preventing or remedying, or assisting in the solution of problems which may result in the neglect, abuse, exploitation, or delinquency of children;

(2) Protecting and caring for homeless, dependent, or neglected children;

(3) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children with services designed to resolve such conflicts;

(4) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;

(5) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.

As used in this chapter, child means a person less than eighteen years of age. [1977 1st ex.s. c 291 § 21; 1975-'76 2nd ex.s. c 71 § 3; 1971 ex.s. c 292 § 66; 1965 c 30 § 3.]

Effective date—Severability—1977 1st ex.s. c 291: See notes following RCW 13.04.005.

Purpose—1975-'76 2nd ex.s. c 71: See annotation following RCW 13.04.095.

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

Children taken into custody or receiving certain services not to be delivered to parents who have not been awarded custody—Exception: RCW 26.09.400.

74.13.031 Duties of department—Crisis intervention services—Accepting juveniles for temporary residential care or alternative residential placement—Establishment of child welfare and day care advisory committee—Duty of juvenile court. (Effective July 1, 1978.) The department shall have the duty to provide child welfare services as defined in RCW 74.13.020, and shall:

(1) Develop, administer, and supervise a plan that establishes, extends aid to, and strengthens services for the protection and care of homeless, dependent children, neglected children, or juvenile offenders.

(2) Investigate complaints of neglect, abuse, or abandonment of children by parents, guardians, custodians, or persons serving in loco parentis, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, guardians, custodians or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. If the investigation reveals that a crime may have been committed, notify the appropriate law enforcement agency.

(3) Offer, on a voluntary basis, crisis intervention to families who are in conflict.

Crisis intervention services (a) shall consist of an interview or series of interviews with the child or his or her family, as needed, conducted within a brief period of time by qualified professional persons, and designed to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the child or the family; and (b) may include, but are not limited to, the provision of or referral to services for suicide prevention, psychiatric or other medical care, or psychological, welfare, legal, educational, or other social services, as appropriate to the needs of the child and the family.

Nothing in this section shall prohibit an officer of the child welfare services from referring any child who, as a result of a mental or emotional disorder, or intoxication by alcohol or other drugs, is suicidal, seriously assaultive or seriously destructive towards others, or otherwise similarly evidences an immediate need for emergency

medical evaluation and possible care, to a community mental health center pursuant to RCW 72.23.070.

(4) Have authority to accept for temporary residential care in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW a child who has been taken into limited custody pursuant to RCW 13.30.020: *Provided*, That a juvenile shall in no event remain in temporary residential care for a period longer than seventy-two hours from the time of the juvenile's initial contact with the law enforcement officer except as otherwise provided in this section. Upon accepting the child, the staff of the facility shall notify the child's parents or custodian of his or her whereabouts, physical and emotional condition, and the circumstances surrounding his or her placement and shall undertake to make arrangements for the child's return home.

In every case crisis intervention services shall be provided as needed and the staff of the temporary facility shall seek to effect the child's return home or alternative living arrangement agreeable to the child and the parent or custodian as soon as practicable.

(a) If, after his or her admission to a temporary residential facility, a child who is absent from home without permission and his or her parent or custodian agrees to the child's return home, the staff of the facility shall arrange transportation for the juvenile, as soon as practicable, to the county of residence of the parent or custodian, at the latter's expense to the extent of his or her ability to pay.

(b) If the child refuses to return home and if no other living arrangements agreeable to the child and the parent or custodian can be made, the staff of the facility shall arrange transportation for the child to a temporary nonsecure residential facility in the county of residence of the parent or custodian, at the expense of the latter to the extent of his or her ability to pay. If there is no such facility in the county of that residence, the nearest such facility to that residence shall be used.

(c) If a child's legal residence is outside the state of Washington and such child refuses to return home, the provisions of RCW 13.24.010 shall apply.

(d) If the parent or custodian refuses to permit the child to return home, and no other living arrangement agreeable to the child and the parent or custodian can be made, staff of the child welfare services section shall notify the juvenile court to appoint legal counsel for the child and shall file a dependency petition in the juvenile court in the jurisdiction of the residence of the parent or custodian.

(e) If a child and his or her parent or guardian agree to an arrangement for alternative residential placement, such placement may continue as long as there is agreement. During any alternative residential placement, there shall be provided to the child and to his or her family such services as may be appropriate to the particular case, to the end that the child may be reunited with the family as soon as practicable.

(f) If such child and his or her parent or custodian cannot agree to an arrangement for alternative residential placement in the first instance, or cannot agree to the continuation of such placement, the child or his or her parent or custodian may file with the juvenile court

a petition to approve alternative residential placement pursuant to RCW 13.32.020. The child shall remain in the placement where he or she is located at the time a petition to approve alternative residential placement is filed until a placement decision is made pursuant to RCW 13.32.040.

(g) In no event shall alternative residential placement for a child in conflict with his or her family be arranged in a secure detention facility or in a secure institution except as provided in this subsection and RCW 13.34.140. A child in conflict with his or her parents may be detained in a secure detention facility operated by a county for a maximum of seventy-two hours if:

(i) The staff of the child welfare services section find that the child taken into limited custody has previously been placed in alternative residential care and has run away from such placement and that it is likely that the child will run away from another and different residential placement; or

(ii) The child refuses to return home and refuses to be placed in alternative residential care.

During such detention, efforts shall be continued to the end that the child may be returned home or other living arrangements agreeable to the child and his or her parent, guardian, or custodian are made. If an agreement concerning living arrangements for the child cannot be reached a petition shall be filed within forty-eight hours after initial detention of the child, pursuant to subsection (4)(f) of this section. The hearing on the petition shall be held within seventy-two hours, excluding Sundays and holidays, of the initial detention of the child. If the hearing on the petition is not held within these time limits the child shall be released from detention.

(5) Cooperate with other public and voluntary agencies and organizations in the development and coordination of programs and activities in behalf of children including but not limited to contracting with private and public entities to provide basic education and vocational training and crisis intervention services.

(6) Have authority to accept custody of children from parents, guardians, and/or juvenile courts, to provide child welfare services including placement for adoption, and to provide for the physical care of such children and to make payment of maintenance costs if needed.

(7) Have authority to purchase care for children and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department.

(8) Establish a child welfare and day care advisory committee who shall act as an advisory committee to the state advisory committee and to the secretary in the development of policy on all matters pertaining to child welfare, day care, licensing of child care agencies, and services related thereto.

(9) Notwithstanding any other provision of chapter 13.30 RCW, RCW 74.13.020, and this section, all services to be provided by the department of social and

health services under subsections (3) and (4) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Title II of the federal juvenile justice and delinquency prevention act of 1974 (P.L. No. 93-415; 42 U.S.C. 5634 et seq.). [1977 1st ex.s. c 291 § 22; 1975-'76 2nd ex.s. c 71 § 4; 1973 1st ex.s. c 101 § 2; 1967 c 172 § 17.]

Effective date—Severability—1977 1st ex.s. c 291: See note following RCW 13.04.005.

Purpose—1975-'76 2nd ex.s. c 71: See annotation following RCW 13.04.095.

Severability—1967 c 172: See note following RCW 74.15.010.

Abuse of child or adult developmentally disabled person, report, investigation: Chapter 26.44 RCW.

Children taken into custody or receiving certain services not to be delivered to parents who have not been awarded custody—Exception: RCW 26.09.400.

Licensing of agencies caring for or placing children, expectant mothers, and developmentally disabled persons: Chapter 74.15 RCW.

Chapter 74.15

AGENCIES—CHILDREN, EXPECTANT MOTHERS, DEVELOPMENTALLY DISABLED— CARE, PLACEMENT

Sections

74.15.010	Declaration of purpose.
74.15.020	Definitions.
74.15.030	Powers and duties of director.
74.15.090	Licenses required.

74.15.010 Declaration of purpose. The purpose of chapter 74.15 RCW, *RCW 74.32.040 through 74.32.055 and 74.13.031 is:

(1) To safeguard the well-being of children, expectant mothers and developmentally disabled persons receiving care away from their own homes;

(2) To strengthen and encourage family unity and to sustain parental rights and responsibilities to the end that foster care is provided only when a child's family, through the use of all available resources, is unable to provide necessary care;

(3) To promote the development of a sufficient number and variety of adequate child-care and maternity-care facilities, both public and private, through the cooperative efforts of public and voluntary agencies and related groups.

(4) To provide consultation to agencies caring for children, expectant mothers or developmentally disabled persons in order to help them to improve their methods of and facilities for care;

(5) To license agencies as defined in RCW 74.15.020 and to assure the users of such agencies, their parents, the community at large and the agencies themselves that adequate minimum standards are maintained by all agencies caring for children, expectant mothers and developmentally disabled persons. [1977 1st ex.s. c 80 § 70; 1967 c 172 § 1.]

***Reviser's note:** "RCW 74.32.040 through 74.32.055" were repealed by 1971 ex.s. c 189 § 7.

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Severability—1967 c 172: "If any provision of this 1967 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." [1967 c 172 § 24.] This applies to RCW 74.13.031 and chapter 74.15 RCW.

74.15.020 Definitions. For the purpose of chapter 74.15 RCW, *RCW 74.32.040 through 74.32.055 and 74.13.031, and unless otherwise clearly indicated by the context thereof, the following terms shall mean:

(1) "Department" means the state department of social and health services;

(2) "Secretary" means the secretary of the state department of social and health services;

(3) "Agency" means any person, firm, partnership, association, corporation, or facility which receives children, expectant mothers or developmentally disabled persons for control, care or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children, expectant mothers or developmentally disabled persons for foster care or placement of children for adoption, and shall include the following irrespective of whether there is compensation to the agency or to the children, expectant mothers or developmentally disabled persons for services rendered:

(a) "Group-care facility" means an agency which is maintained and operated for the care of a group of children on a twenty-four hour basis;

(b) "Child-placing agency" means an agency which places a child or children for temporary care, continued care, or for adoption;

(c) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement;

(d) "Day-care center" means an agency which regularly provides care for a group of children for periods of less than twenty-four hours; and

(e) "Foster-family home" means an agency which regularly provides care during any part of the twenty-four hour day to one or more children, expectant mothers or developmentally disabled persons in the family abode of the person or persons under whose direct care and supervision the child, expectant mother or developmentally disabled person is placed.

"Agency" shall not include the following:

(a) Persons related by blood or marriage to the child, expectant mother or developmentally disabled persons in the following degrees: Parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, and/or first cousin;

(b) Persons who are legal guardians of the child, expectant mother or developmentally disabled persons;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person does not engage in such activity on a regular basis, or where parents on a mutually cooperative basis exchange care of one another's children, or persons who have the care of an exchange student in their own home;

(d) Nursery schools or kindergartens which are engaged primarily in educational work with preschool

children and in which no child is enrolled on a regular basis for more than four hours per day;

(e) Schools, including boarding schools, which are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;

(f) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(g) Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW, nursing homes licensed under chapter 18.51 RCW and boarding homes licensed under chapter 18.20 RCW;

(h) Licensed physicians or lawyers;

(i) Facilities providing care to children for periods of less than twenty-four hours whose parents remain on the premises to participate in activities other than employment;

(j) Facilities approved and certified under RCW 72.33.810;

(k) Any agency having been in operation in this state ten years prior to June 8, 1967 and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund.

(4) "Requirement" means any rule, regulation or standard of care to be maintained by an agency. [1977 1st ex.s. c 80 § 71; 1967 c 172 § 2.]

*Reviser's note: "RCW 74.32.040 through 74.32.055", see note following RCW 74.15.010.

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

74.15.030 Powers and duties of director. The director shall have the power and it shall be his duty:

(1) In consultation with the child welfare and day care advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to designate categories of facilities for which separate or different requirements shall be developed as may be appropriate whether because of variations in the ages, sex and other characteristics of persons served, variations in the purposes and services offered or size or structure of the agencies to be licensed hereunder, or because of any other factor relevant thereto;

(2) In consultation with the child welfare and day care advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed.

The minimum requirements shall be limited to:

(a) The size and suitability of a facility and the plan of operation for carrying out the purpose for which an applicant seeks a license;

(b) The character, suitability and competence of an agency and other persons associated with an agency

directly responsible for the care and treatment of children, expectant mothers or developmentally disabled persons;

(c) The number of qualified persons required to render the type of care and treatment for which an agency seeks a license;

(d) The safety, cleanliness, and general adequacy of the premises to provide for the comfort, care and well-being of children, expectant mothers or developmentally disabled persons;

(e) The provision of necessary care, including food, clothing, supervision and discipline; physical, mental and social well-being; and educational, recreational and spiritual opportunities for those served;

(f) The financial ability of an agency to comply with minimum requirements established pursuant to chapter 74.15 RCW, *RCW 74.32.040 through 74.32.055 and 74.13.031; and

(g) The maintenance of records pertaining to the admission, progress, health and discharge of persons served.

(3) To issue, revoke, or deny licenses to agencies pursuant to chapter 74.15 RCW, *RCW 74.32.040 through 74.32.055 and 74.13.031. Licenses shall specify the category of care which an agency is authorized to render and the ages, sex and number of persons to be served;

(4) To prescribe the procedures and the form and contents of reports necessary for the administration of chapter 74.15 RCW, *RCW 74.32.040 through 74.32.055 and 74.13.031 and to require regular reports from each licensee;

(5) To inspect agencies periodically to determine whether or not there is compliance with chapter 74.15 RCW, *RCW 74.32.040 through 74.32.055 and 74.13.031 and the requirements adopted hereunder;

(6) To review requirements adopted hereunder at least every two years and to adopt appropriate changes after consultation with the child welfare and day care advisory committee; and

(7) To consult with public and private agencies in order to help them improve their methods and facilities for the care of children, expectant mothers and developmentally disabled persons. [1977 1st ex.s. c 80 § 72; 1967 c 172 § 3.]

*Reviser's note: "RCW 74.32.040 through 74.32.055", see note following RCW 74.15.010.

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

74.15.090 Licenses required. It shall hereafter be unlawful for any agency to receive children, expectant mothers or developmentally disabled persons for supervision or care, or arrange for the placement of such persons, unless such agency is licensed as provided in chapter 74.15 RCW, *RCW 74.32.040 through 74.32.055 and 74.13.031. [1977 1st ex.s. c 80 § 73; 1967 c 172 § 9.]

*Reviser's note: "RCW 74.32.040 through 74.32.055", see note following RCW 74.15.010.

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

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Chapter 74.16

AID TO BLIND PERSONS—WASHINGTON STATE COMMISSION FOR THE BLIND

Sections

74.16.170	Prevention of blindness.
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74.16.510	Eye examinations may be required—Costs.
74.16.520	Administrative review.
74.16.530	Judicial review.
74.16.540	Expiration of commission.

74.16.170 Prevention of blindness. In cooperation with the department of social and health services, there shall be established and maintained such service as is needed looking toward the prevention of blindness, the purpose of which shall be to determine the causes of blindness, and to inaugurate and cooperate in any preventive measures for the state of Washington as may appear practicable. Whenever a blind or partially blind person can be benefited by medical or surgical treatment for which he is unable to pay, arrangement shall be made for an examination, with the consent of the individual, and for the necessary treatment by an ophthalmologist or physician skilled in the diseases of the eye. [1977 1st ex.s. c 40 § 16; 1959 c 26 § 74.16.170. Prior: 1937 c 132 § 3; RRS § 10007-1.]

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

74.16.181 Vocational training—Self-support, self-care—Program of services authorized. The commission may maintain or cause to be maintained a program of services to assist visually handicapped persons to overcome vocational handicaps and to obtain the maximum degree of self-support and self-care. Services provided for under this section may be furnished to clients from other agencies of this or other states for a fee which shall not be less than the actual costs of such services. Under such program the commission may:

(1) Furnish diagnostic evaluation to determine the nature and scope of services to be provided.

(2) Provide physical restoration to eliminate or minimize the effects of the handicap.

(3) Provide for special education and/or training in the professions, business or trades under a vocational rehabilitation plan, and if the same cannot be obtained within the state, provisions shall be made for such purposes outside of the state. Living maintenance during the period of such education and/or training within or without the state may be furnished.

(4) Establish, construct, and/or maintain one or more rehabilitation centers, training centers and/or workshops to teach visually handicapped persons to prepare for and maintain trades or occupations when such training is feasible and will contribute to the efficiency and/or support of such visually handicapped persons, to provide employment for them and to devise means for the sale and distribution of their products.

(5) Provide teacher-counselor services and teaching of subjects which will assist visually handicapped persons in the ease and enjoyment of daily living.

(6) Place visually handicapped persons in jobs and/or business enterprises in accordance with the abilities and interests of the applicant therefor.

(7) Teach visually handicapped persons trades or occupations which may be followed in their homes and to assist them in whatever manner may seem advisable in disposing of the products of their home industries.

(8) Aid individual visually handicapped persons or groups of visually handicapped persons to engage in gainful occupations by furnishing materials, equipment, goods or services to them, by providing such financial assistance as may be necessary to encourage and equip them to reach an objective established with them by the agency. [1977 1st ex.s. c 40 § 17; 1967 c 59 § 1.]

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

Office of vocational rehabilitation: Chapter 28A.10 RCW.

Vocational rehabilitation and services for handicapped persons: Chapter 28A.10 RCW.

74.16.183 Vocational training—Eligibility for commission services. An applicant for services from the commission must be an applicant:

Who has no vision or whose vision with correcting glasses is so defective as to prevent the performance of ordinary activities for which eyesight is essential or who has an eye condition of a progressive nature which may lead to blindness. [1977 1st ex.s. c 40 § 18; 1967 c 59 § 2.]

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

74.16.190 Home industries revolving fund. The commission may create an operating fund of fifteen thousand dollars from any money appropriated for the blind to be used to create a home industries revolving fund for the purpose of advancing the cost of production and wages for the blind engaged in industry under the supervision of the commission and to promote the sale of articles produced by such industry. All moneys received from the sale of articles produced in industries of the blind under the supervision of the commission shall be deposited in the home industries revolving fund. [1977 1st ex.s. c 40 § 19; 1959 c 26 § 74.16.190. Prior: 1953 c

174 § 46; 1939 c 75 § 1; 1937 c 132 § 5; RRS § 10007-2a.]

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

74.16.300 Services provided to help attain self-care. The commission is authorized to provide social and related services as are reasonably necessary to the end that applicants for or recipients of aid to the blind assistance are helped to attain self-care. [1977 1st ex.s. c 40 § 20; 1959 c 26 § 74.16.300. Prior: 1957 c 63 § 9.]

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

74.16.400 Commission for the blind—Legislative declaration. The purpose of RCW 74.16.400 through 74.16.530 is to promote the economic and social welfare of blind persons in the state of Washington, to relieve blind or visually handicapped persons from the distress of poverty through their complete integration into society on the basis of equality, and to encourage and assist blind or visually handicapped persons in their efforts to become economically and socially independent so as to render themselves more self-supporting. [1977 1st ex.s. c 40 § 1.]

Severability—1977 1st ex.s. c 40: "If any provision of this 1977 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." [1977 1st ex.s. c 40 § 25.] This applies to RCW 74.16.400 through 74.16.540 and to the 1977 amendments to RCW 43.20A.300, 74.16.170, 74.16.181, 74.16.183, 74.16.190, 74.16.300, 74.17.010, 74.17.020, and 74.17.040.

74.16.410 Commission for the blind created—Membership—Terms—Vacancies—Chairperson—Per diem and expenses. (1) There is hereby created the Washington state commission for the blind. As used in this chapter, unless the context otherwise requires, "commission" means the Washington state commission for the blind. The commission shall consist of five members of whom at least three shall be blind as defined in RCW 74.16.030(1) as now existing or hereafter amended. Commission members shall be residents of the state of Washington, and no member shall be an employee of the commission.

(2) The governor shall, with the advice and consent of the senate, appoint members of the commission for terms of three years, except that the initial appointment shall be as follows: (a) Two members for terms of three years; (b) two members for terms of two years; and (c) one member for a term of one year. All vacancies in the membership of the commission shall only be filled for the remainder of the unexpired term.

(3) Commission members shall elect one of their members as chairperson of the commission for a term of one year or until a successor has been elected. The commission chairperson shall preside over meetings to be held at least once every quarter on such date and at such place as may be set by the commission. In addition, a majority of the commission may require such special meetings as may be necessary.

(4) Commission members shall not receive a salary, but shall receive twenty-five dollars for each day or

major portion thereof spent in the performance of their official duties, plus reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1977 1st ex.s. c 40 § 2.]

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

74.16.420 Director and personnel. (1) The commission shall appoint a director whose function shall be to serve as secretary to the commission and director of programs established by the commission. The commission in appointing such director shall give preference to qualified blind persons and/or persons experienced in working with various programs for the blind. The director of the commission shall be executive head and appointing authority for all activities undertaken in the name of the commission.

(2) The director may appoint such officers as deemed necessary, none of whom shall be members of the commission. Moreover, the director and deputy director, together with their confidential secretaries and any assistant directors shall be exempt from the civil service laws of this state. The director's salary and the salaries of the officers designated in this subsection shall be fixed by the governor, pursuant to the provisions of RCW 43.03.040 in the same manner as salaries are fixed for persons appointed by the governor. [1977 1st ex.s. c 40 § 3.]

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

74.16.430 Transfer of powers, duties, and functions to commission—Transfer of funds and property. (1) All powers, duties, and functions of the department of social and health services relating to state services for the blind are transferred to the commission, along with all facilities, buildings, desks, equipment, files, furniture, supplies, contracts, personnel, records, reports, documents, books, papers, or other writings within the department of social and health services which pertain to such powers, duties, and functions and which are presently vested with state services for the blind or as vested in the department of social and health services in the name of services for the blind as administered under RCW 74.16.170, 74.16.181, 74.16.183, 74.16.190, 74.16.300, and chapter 74.17 RCW.

(2) All appropriations and funds allocated to the department of social and health services and/or to any other department for such services to the blind as are set forth in subsection (1) of this section are transferred to the commission.

(3) All transfer of funds and/or any tangible property, under subsections (1) and (2) of this section, shall be executed as efficiently and expeditiously as possible. Whenever any question arises with respect to the transfers referred to herein, the director of program planning and fiscal management shall make a determination as to the proper allocation and verify the same to the affected state agencies. [1977 1st ex.s. c 40 § 4.]

Reviser's note: "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

74.16.440 Commission—Powers and duties. The commission, through the director, shall serve as the sole agency of the state for contracting for and disbursement of all federal and state funds appropriated for any and all programs and services established by and within the jurisdiction of this chapter or chapter 74.17 RCW. The director, in the name of the commission, shall make such reports and render such accounting as may be required including a biennial report to the governor and the legislature, which report shall include a summary of all rules and regulations adopted pursuant to this chapter. [1977 1st ex.s. c 40 § 5.]

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

74.16.450 Commission—Plans, rules, and regulations—Federal funds. The commission, through the director, shall serve as the sole agency of the state in preparing, adopting, and certifying state plans, rules, and regulations for services for the blind and visually handicapped, as set forth in this chapter and in seeking federal funds for same. [1977 1st ex.s. c 40 § 6.]

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

74.16.460 Commission—Responsibility for negotiations with federal government. The commission shall be responsible for all negotiations with the federal government regarding the Randolph Sheppard Act (P.L. 93-516, 88 Stat. 1622 Title 2). [1977 1st ex.s. c 40 § 7.]

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

74.16.470 Gifts and contributions—Receipt and expenditure. The director, in the name of the commission, may accept contributions or gifts in cash or otherwise from persons, associations, or corporations. Contributions and gifts shall be disbursed, under RCW 74.16.440, in the same manner as moneys appropriated for implementing the purposes of this chapter. However, the donor of such gifts may stipulate the manner in which such gifts shall be expended. [1977 1st ex.s. c 40 § 8.]

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

74.16.480 Paramount construction. To effectively carry out the intent and purposes of RCW 74.16.400 through 74.16.530 any conflict with any other provision, limitation, or restriction which is now in effect under any other law of this state, or any rule or regulation promulgated thereunder, shall be resolved in favor of RCW 74.16.400 through 74.16.530. [1977 1st ex.s. c 40 § 9.]

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

74.16.490 Employment of educational consultants—Director's liaison duties. (1) The commission may employ qualified educational consultants to assist public or private school teachers responsible for teaching visually handicapped students. Educational consultants shall assist public and private school teachers by providing methods and materials for teaching visually handicapped students. The superintendent of public instruction shall inform the commission of all schools having visually handicapped students enrolled therein.

(2) The director shall be the liaison between the commission, the state school for the blind, the superintendent of public instruction, and the department of social and health services and shall coordinate all programs affecting blind students. [1977 1st ex.s. c 40 § 10.]

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

74.16.500 Collective bargaining—Not affected by chapter. Nothing in this chapter shall be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining contract or agreement until such contract or agreement has expired or until the state personnel board, as provided by law, modifies the bargaining unit. [1977 1st ex.s. c 40 § 11.]

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

74.16.510 Eye examinations may be required—Costs. (1) An applicant for services to the blind may be required to submit to an eye examination. Such examination shall be performed by an ophthalmologist or physician skilled in diseases of the eye or by a licensed optometrist and may be provided without charge to the applicant for services to the blind. Unless other funds are available, all examinations shall be paid for by the commission.

(2) The commission may contract with the department of social and health services to provide eye examinations for applicants for aid to the blind. The cost of such examinations will be paid for by the department of social and health services. [1977 1st ex.s. c 40 § 12.]

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

74.16.520 Administrative review. (1) Every person aggrieved by a decision or action or inaction of the commission shall be granted, upon request, an administrative review of such decision or action or inaction. A hearing shall be held and a decision rendered by the commission or its designee within fifteen days of receipt of a request for administrative review. All hearings held pursuant to this section shall be conducted in the county in which the applicant resides, and a transcript of the testimony shall be made and included in the record, the cost of which shall be borne by the commission.

(2) A copy of this transcript shall be made available to the aggrieved party or his attorney of record upon written request.

(3) Unless this chapter specifically provides otherwise, the administrative procedure act, chapter 34.04 RCW,

shall whenever applicable herein govern the rights, remedies, and procedures with respect to the administration of this chapter. [1977 1st ex.s. c 40 § 13.]

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

74.16.530 Judicial review. (1) A person aggrieved by the decision rendered in a hearing held pursuant to RCW 74.16.520, shall have the right to petition the superior court for judicial review pursuant to chapter 34.04 RCW.

(2) An aggrieved party may secure review of any final judgment under this chapter by appeal to the supreme court or the court of appeals.

(3) The appellant under this section, shall not be required to post bond or to pay any filing fees with respect to such appeal. In addition, an appellant receiving a favorable decision upon appeal under this section, shall be entitled to reasonable attorney's fees and costs. [1977 1st ex.s. c 40 § 14.]

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

74.16.540 Expiration of commission. The Washington state commission for the blind and its operations shall expire automatically on June 30, 1983, unless such expiration date be removed or extended by subsequent action of the legislature. [1977 1st ex.s. c 40 § 24.]

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

Chapter 74.17

BLIND PERSONS—VENDING FACILITIES IN PUBLIC BUILDINGS

Sections

74.17.010	Definitions.
74.17.020	Priority to blind persons.
74.17.040	Rules and regulations—Existing facilities.

74.17.010 Definitions. The terms defined in this section shall have the indicated meanings when used in this chapter.

(1) "Commission" means the Washington state commission for the blind.

(2) "Blind person" means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty degrees. In determining whether an individual is blind there shall be an examination by a physician skilled in diseases of the eye, or by an optometrist, whichever the individual shall select.

(3) "Licensee" means a blind person licensed by the state of Washington pursuant to federal law, 49 Stat. 1559, as amended, 20 U.S.C. sec. 107, this chapter, and the rules and regulations issued hereunder.

(4) "Public building" means any building owned by the state of Washington or any political subdivision thereof and any space leased by the state of Washington or any political subdivision thereof in any privately owned building and designated by the commission as being appropriate for inclusion in the business enterprises program: *Provided, however,* That any vending facility or vending machine under the jurisdiction and control of another established state or local board or authority responsible for its maintenance and operation shall not be designated without the consent and approval of such state or local board or authority.

(5) "Vending facility" means any vending stand, facility, cafeteria, or snack bar at which food, tobacco, or sundries are offered for sale.

(6) "Vending machine" means any coin operated machine offering food, tobacco, or sundries for sale.

(7) "Business enterprises program" is that program operated by the commission pursuant to applicable federal law and this chapter in support of blind persons operating vending businesses in public buildings. [1977 1st ex.s. c 40 § 21; 1975 1st ex.s. c 251 § 1.]

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

74.17.020 Priority to blind persons. (1) The commission is authorized to license blind persons for the operation of vending facilities and machines on federal property and in public buildings.

(2) The state, political subdivisions thereof, and agencies of the state or political subdivisions thereof shall give priority to licensees in the operation of vending facilities and machines in a public building. [1977 1st ex.s. c 40 § 22; 1975 1st ex.s. c 251 § 2.]

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

74.17.040 Rules and regulations—Existing facilities. (1) The commission shall promulgate rules necessary to implement this chapter.

(2) This chapter and rules promulgated thereunder shall not apply to any franchise, concession, or contract governing operation of a vending facility in a public building if such franchise, concession, or contract was in existence immediately prior to September 8, 1975. [1977 1st ex.s. c 40 § 23; 1975 1st ex.s. c 251 § 4.]

Severability—1977 1st ex.s. c 40: See note following RCW 74.16.400.

Chapter 74.38

SENIOR CITIZENS SERVICES ACT

Sections

74.38.010	Legislative recognition—Public policy.
74.38.020	Definitions.
74.38.040	Scope and extent of community based services program—Termination date of chapter.
74.38.050	Availability of services for nonlow income persons—Utilization of volunteers and public assistance recipients—Private agencies—Fee schedule, exceptions.
74.38.061	Expansion of federal programs authorized.

74.38.010 Legislative recognition—Public policy.

The legislature recognizes the need for the development and expansion of alternative services and forms of care for senior citizens. Such services should be designed to restore individuals to, or maintain them at, the level of independent living they are capable of attaining. These alternative services and forms of care should be designed to both complement the present forms of institutional care and create a system whereby appropriate services can be rendered according to the care needs of an individual. The provision of service should continue until the client is able to function independently, moves to an institution, moves from the state, dies, or withdraws from the program.

Therefore, it shall be the policy of this state to develop, expand, or maintain those programs which provide an alternative to institutional care when that form of care is premature, unnecessary, or inappropriate. [1977 1st ex.s. c 321 § 1; 1975-'76 2nd ex.s. c 131 § 1.]

Termination—1977 1st ex.s. c 321: "The provisions of *this 1977 amendatory act shall terminate on June 30, 1979, unless otherwise provided by law." [1977 1st ex.s. c 321 § 7.]

***Reviser's note:** "this 1977 amendatory act" consists of RCW 74.38.070 and the 1977 amendments to RCW 74.38.010, 74.38.020, 74.38.040, and 74.38.050.

74.38.020 Definitions. As used in this chapter, the following words- and phrases shall have the following meaning unless the content clearly requires otherwise:

(1) "Area agency" means an agency, other than a state agency, designated by the department to carry out programs or services approved by the department in a designated geographical area of the state.

(2) "Area plan" means the document submitted annually by an area agency to the department for approval which sets forth (a) goals and measurable objectives, (b) review of past expenditures and accounting of revenue for the previous year, (c) estimated revenue and expenditures for the ensuing year, and (d) the planning, coordination, administration, social services, and evaluation activities to be undertaken to carry out the purposes of the Older Americans Act of 1965 (42 U.S.C. Sec. 3024 et. seq.), as now or hereafter amended.

(3) "Department" means the department of social and health services.

(4) "Office" shall mean the office on aging which is the organizational unit within the department responsible for coordinating and administering aging problems.

(5) "Eligible persons" means senior citizens who are:

(a) Sixty-five years of age or more; or

(b) Sixty years of age or more and are either (i) nonemployed, or (ii) employed for twenty hours per week or less; and

(c) In need of services to enable them to remain in their customary homes because of physical, mental, or other debilitating impairments.

(6) "Low income" means initial resources or subsequent income at or below forty percent of the state median income as promulgated by the secretary of the United States department of health, education and welfare for Title XX of the Social Security Act, or, in the alternative, a level determined by the department and approved by the legislature.

(7) "Income" shall have the same meaning as RCW 74.04.005(12), as now or hereafter amended; except, that money received from RCW 74.38.060 shall be excluded from this definition.

(8) "Resource" shall have the same meaning as RCW 74.04.005(11), as now or hereafter amended.

(9) "Need" shall have the same meaning as RCW 74.04.005(13), as now or hereafter amended. [1977 1st ex.s. c 321 § 2; 1975-'76 2nd ex.s. c 131 § 2.]

Termination—1977 1st ex.s. c 321: See note following RCW 74.38.010.

74.38.040 Scope and extent of community based services program—Termination date of chapter. The community based services for low income eligible persons provided by the department or the respective area agencies may include:

(1) Access services designed to provide identification of eligible persons, assessment of individual needs, reference to the appropriate service, and follow-up service where required. These services shall include information and referral, outreach, transportation and counseling;

(2) Day care offered on a regular, recurrent basis. General nursing, rehabilitation, personal care, nutritional services, social casework, mental health as provided pursuant to chapter 71.24 RCW and/or limited transportation services may be made available within this program;

(3) In-home care for persons, including basic health care; performance of various household tasks and other necessary chores, or, a combination of these services;

(4) Counseling on death for the terminally ill and care and attendance at the time of death; except, that this is not to include reimbursement for the use of life-sustaining mechanisms;

(5) Health services which will identify health needs and which are designed to avoid institutionalization; assist in securing admission to medical institutions or other health related facilities when required; and, assist in obtaining health services from public or private agencies or providers of health services. These services shall include health screening and evaluation, in-home services, health education, and such health appliances which will further the independence and well-being of the person;

(6) The provision of low cost, nutritionally sound meals in central locations or in the person's home in the instance of incapacity. Also, supportive services may be provided in nutritional education, shopping assistance, diet counseling and other services to sustain the nutritional well-being of these persons;

(7) The provisions of services to maintain a person's home in a state of adequate repair, insofar as is possible, for their safety and comfort. These services shall be limited, but may include housing counseling, minor repair and maintenance, and moving assistance when such repair will not attain standards of health and safety, as determined by the department;

(8) Civil legal services, as limited by RCW 2.50.100, for counseling and representation in the areas of housing, consumer protection, public entitlements, property,

and related fields of law. [1977 1st ex.s. c 321 § 3; 1975-'76 2nd ex.s. c 131 § 4.]

Termination—1977 1st ex.s. c 321: See note following RCW 74.38.010.

74.38.050 Availability of services for nonlow income persons—Utilization of volunteers and public assistance recipients—Private agencies—Fee schedule, exceptions. The services provided in RCW 74.38.040 may be provided to nonlow income eligible persons: *Provided*, That volunteer workers and public assistant recipients shall be utilized to the maximum extent possible to provide the services provided in RCW 74.38.040: *Provided further*, That when volunteer workers and public assistance recipients are not available, the department shall utilize the bid procedure pursuant to chapter 43.19 RCW for providing such services to low income and nonlow income persons whenever the services to be provided are available through private agencies at a cost savings to the department. The department shall establish a fee schedule based on the ability to pay and graduated to full recovery of the cost of the service provided; except, that nutritional services, health screening, and access services provided in RCW 74.38.040 shall not be based on need and no fee shall be charged. [1977 1st ex.s. c 321 § 4; 1975-'76 2nd ex.s. c 131 § 5.]

Termination—1977 1st ex.s. c 321: See note following RCW 74.38.010.

74.38.061 Expansion of federal programs authorized. The department may expand the foster grandparent, senior companion, and retired senior volunteer programs funded under the Federal Volunteer Agency (ACTION) (P.L. 93-113 Title II), or its successor agency, which provide senior citizens with volunteer stipends, out-of-pocket expenses, or wages to perform services in the community. [1977 1st ex.s. c 321 § 5.]

Termination—1977 1st ex.s. c 321: See note following RCW 74.38.010.

Title 75

FOOD FISH AND SHELLFISH

Chapters

75.08	Administration and enforcement.
75.18	Preservation of salmon resources.
75.28	Licenses.
75.30	Salmon charter boat licensing limitations.
75.32	Privilege fees and fish sales taxes.
75.40	Compacts.
75.48	Salmon enhancement facilities bond issue.

Chapter 75.08

ADMINISTRATION AND ENFORCEMENT

Sections

75.08.020	General duties of director—Patrol vehicles and crafts—Reports and recommendations.
75.08.023	Repealed.

75.08.085 Rules to promote orderly recreational fisheries.
 75.08.230 Disposition of moneys collected—Proceeds from sale of food fish or shellfish.

75.08.020 General duties of director—Patrol vehicles and crafts—Reports and recommendations. The director shall devote his time to the duties of his office and enforce the laws and regulations of the director relating to propagation, protection, conservation, preservation, and management of food fish and shellfish.

The director shall purchase, construct, charter, and operate vehicles, boats, and aircraft necessary to properly patrol the shores and waters of the state and the offshore waters in the enforcement of this title and the regulations of the director.

The director shall make an annual report each year to the governor, containing a statement of his official actions, of the operation and result of the laws pertaining to the fish and shellfish industry, statistics of the fishing business, and suggestions as to needed legislation whenever he deems it necessary. [1977 c 75 § 87; 1955 c 12 § 75.08.020. Prior: 1949 c 112 § 7(3), (6), (7); Rem. Supp. 1949 § 5780-206 (3), (6), (7).]

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

75.08.085 Rules to promote orderly recreational fisheries. The director may adopt rules to promote orderly recreational fisheries and may take into consideration factors of navigation, law enforcement, recreational fishery enhancement, environmental concerns, and public recreation. The rules shall be adopted in conformity with chapter 34.04 RCW. [1977 1st ex.s. c 327 § 18.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

75.08.230 Disposition of moneys collected—Proceeds from sale of food fish or shellfish. All license fees, taxes, fines, and moneys realized from the sale of property seized or confiscated under the provisions of this title, and all bail moneys forfeited under prosecutions instituted under the provisions of this title, and all moneys realized from the sale of any of the property, real or personal, heretofore or hereafter acquired for the state and under the control of the department, such moneys as are realized from the sale of food fish or shellfish caught or taken during test fishing operations conducted by the department for the purpose of food fish or shellfish resource evaluation studies, all moneys collected for damages and injuries to any such property, and all moneys collected for rental or concessions from such property, shall be paid into the state treasury general fund unless otherwise provided by law: *Provided*, That salmon taken in test fishing operations shall not be sold except during a season open to commercial fishing in the district wherein test fishing is being conducted: *Provided further*, That fifty percent of all money received as fines together with all of the costs shall be retained by the county in which the fine was collected.

All fines collected shall be remitted monthly by the justice of the peace or by the clerk of the court collecting the same to the county treasurer of the county in which the same shall be collected, and the county treasurer shall at least once a month remit fifty percent of the same to the state treasurer and at the same time shall furnish a statement to the director showing the amount of fines so remitted and from whom collected: *Provided*, That in instances wherein any portion of a fine assessed by a court is suspended, deferred, or otherwise not collected, the entire amount collected shall be remitted by the county treasurer to the state treasurer and shall be credited to the general fund: *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.

Proceeds from the sale of food fish or shellfish taken in test fishing conducted by the department, to the extent that these proceeds may exceed estimates thereof in the budget approved by the legislature, may be allocated by the office of program planning and fiscal management as unanticipated receipts under such procedures as are adopted by the legislature for the allocation of such receipts to reimburse the department for any unanticipated costs for test fishing operations in excess of any allowance therefor in the budget as approved by the legislature.

Proceeds of all sales of salmon and all sales of salmon eggs by the department, to the extent these proceeds may exceed estimates in the budget as approved by the legislature, may be allocated by the office of program planning and fiscal management as unanticipated receipts under such procedures as the legislature may adopt for the allocation of such receipts.

Such allocations shall be made only for the purpose of meeting department obligations in regards to hatchery operations partially or wholly financed by sources other than state general revenues or for purposes of processing human consumable salmon for disposal as may be provided by law. [1977 1st ex.s. c 327 § 33; 1975 1st ex.s. c 223 § 1; 1969 ex.s. c 199 § 31; 1969 ex.s. c 16 § 1; 1965 ex.s. c 72 § 2; 1955 c 12 § 75.08.230. Prior: 1951 c 271 § 2; 1949 c 112 § 25; Rem. Supp. 1949 § 5780-223.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

Chapter 75.18

PRESERVATION OF SALMON RESOURCES

Sections

75.18.080	Commercial taking, transporting, delivery of salmon—Permits—Fees—Revocation.
75.18.100	Salmon enhancement facilities program—Purpose—Intent.
75.18.110	Salmon enhancement facilities program—Requirements and factors to be considered—Salmon advisory council.

75.18.080 Commercial taking, transporting, delivery of salmon—Permits—Fees—Revocation. Every

person or persons, firm or corporation operating a fishing vessel of any description used in the commercial taking or catching of salmon in offshore waters and the transporting or bringing the same in and through the waters of the state of Washington and delivering the same in any place or port in the state of Washington shall, as a condition of doing so, obtain a permit from the director of fisheries. The fee for said permit shall be two hundred dollars for the vessel and operator, such permit to be effective during the calendar year in which issued: *Provided*, That persons operating fishing vessels licensed under RCW 75.28.085 may apply the delivery permit fee of ten dollars against the fees outlined hereinabove except those holding a valid troll license are exempt from said fees: *Provided further*, That if it appears to the director of fisheries, after investigation, that the operation of such vessel under such permit tends to result in the impairment, depletion, or destruction of the salmon resource and supply of this state and in bringing into this state salmon products prohibited by law, in that event, the director under such regulations and terms as he may prescribe, may revoke said permit to use and operate such boat in the waters of this state, and in the event of the revocation of such permit, the further operation of such vessel as hereinabove set forth shall then be unlawful. [1977 1st ex.s. c 327 § 3; 1971 ex.s. c 283 § 1; 1955 c 12 § 75.18.080. Prior: 1953 c 147 § 9.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

Effective dates—1971 ex.s. c 283: "The provisions of this 1971 amendatory act are 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. The provisions of sections 1 to 10 inclusive of this 1971 amendatory act shall take effect on January 1, 1972." [1971 ex.s. c 283 § 16.] This applies to RCW 75.28.081, 75.28.375 and to the 1971 amendments to RCW 75.12.010, 75.18.080, 75.28.012, 75.28.013, 75.28.060, 75.28.085, 75.28.087, 75.28.095, 75.28.130, 75.28.140, 75.28.190 and 75.28.220.

Certain license fees double as to nonresidents: RCW 75.28.375.

Permit under RCW 75.28.085 plus added fee for each man aboard will satisfy requirements of RCW 75.18.080: RCW 75.28.085.

Permittee under RCW 75.18.080 not required to obtain permit under RCW 75.28.085: RCW 75.28.085.

75.18.100 Salmon enhancement facilities program—Purpose—Intent. The long range economic development goals for the state of Washington shall include the restoration of salmon runs to provide an increased supply of this valuable renewable resource for the benefit of commercial and recreational users and the economic well-being of the state. For the purpose of providing funds for the planning, acquisition, construction, improvement, and operation of salmon enhancement facilities within the state it is the intent of the legislature that the revenues received from fees from the issuance of vessel delivery permits, charter boat licenses, trolling gear licenses, gill net gear licenses, purse seine gear licenses, reef net gear licenses, anadromous salmon angling licenses and all moneys received from all privilege fees and fish sales taxes collected on fresh or frozen salmon or parts thereof be utilized to fund such costs.

The salmon enhancement program funded by commercial and recreational fishing fees and taxes shall be for the express benefit of all persons whose fishing activities fall under the management authority of the Washington department of fisheries and who actively participate in the funding of the enhancement costs through the fees and taxes set forth in chapters 75.28 and 75.32 RCW or through other adequate funding methods. [1977 1st ex.s. c 327 § 1.]

Severability—1977 1st ex.s. c 327: "If any provision of this 1977 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." [1977 1st ex.s. c 327 § 34.]

Effective date—1977 1st ex.s. c 327: "This 1977 amendatory act shall take effect on January 1, 1978." [1977 1st ex.s. c 327 § 35.]

75.18.110 Salmon enhancement facilities program—Requirements and factors to be considered—Salmon advisory council. (1) The department shall not acquire, construct, or substantially improve any salmon enhancement facility unless the requirements of this section are met.

(a) The productivity of any salmon propagation facility is very dependent on water quantity and quality. Since there is a limited number of water sources which meet the critical needs of a facility it is imperative that these sources are acquired. Therefore, site acquisitions and preliminary design shall be considered by the department as generally having priority over project development.

(b) Prior to expending any moneys for the construction and development of any particular salmon propagation facility, except for site acquisition and preliminary design, the department shall, with the advice of the advisory council created in subsection (2) of this section, give consideration to the following factors with respect to that facility:

(i) The department's management authority over propagated salmon;

(ii) The level of expected Canadian interception on the propagated salmon and whether this would be acceptable;

(iii) Whether an acceptable agreement has been reached on the status of treaty Indian salmon harvest; and

(iv) Whether there can be a maximum harvest of propagated salmon with a tolerable impact on other salmonid stocks, both natural and artificial, and on their environment. The department shall consult on this matter with the department of game.

(2) To aid and advise the department in the performance of its functions as specified by this section with regard to the salmon enhancement program, a salmon advisory council is hereby created. The advisory council shall consist of ten members appointed by the governor; the director of the department of fisheries, who shall be chairman; the director of the department of game, or the director's designee; one member of the senate to be appointed by the president of the senate; and one member of the house of representatives to be appointed by the speaker of the house of representatives. Of the members appointed by the governor, two shall represent

troll fishermen; two shall represent gill net fishermen, of which one shall be from the Puget Sound area and one from the southwest Washington area; one shall represent purse seine fishermen; one shall represent owners of charter boats; two shall represent sportsmen; and two shall represent fish processors, of which one shall represent fresh or frozen fish processors and one shall represent canneries.

The advisory council shall be convened by the director prior to the decision to expend any funds for construction and development of any salmon propagation facility. The council shall advise the director with regard to the considerations listed in subsection (1)(b) of this section and any other factors the council deems relevant with respect to the proposed facility.

Vacancies shall be filled in the same manner as original appointments. Except for the director of the department of game and legislative members, members shall receive reimbursement through the department of fisheries for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

The director of the department of game, or the director's designee, shall receive reimbursement through the department of game for travel expenses incurred in the performance of his or her duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. The legislative members shall be deemed engaged in legislative business while in attendance upon the business of the council and shall be limited to such allowances therefor as otherwise provided in RCW 44.04.120 as now existing or hereafter amended. [1977 1st ex.s. c 327 § 2.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

Chapter 75.28 LICENSES

Sections

75.28.095	Charter boat license—Restrictions.
75.28.130	Troll line license.
75.28.140	Gill net license.
75.28.190	Purse seine (drum, table, power block) license.
75.28.220	Reef net license.
75.28.310	Repealed.
75.28.450	Limitations upon salmon licenses and delivery permits—Intention.
75.28.455	Limitation upon salmon licenses and delivery permits—Program to limit commercial salmon vessels—Qualifications for licensing.
75.28.460	Limitation upon salmon licenses and delivery permits—Salmon caught outside state waters—Single delivery permit—Fee.
75.28.465	Limitation upon salmon licenses and delivery permits—Vessels under construction.
75.28.470	Limitation upon salmon licenses and delivery permits—Licensing of charter fishing vessels.
75.28.475	Limitation upon salmon licenses and delivery permits—Advisory boards of review—Travel expenses.
75.28.480	Limitation upon salmon licenses and delivery permits—Appeal to board of review—Hearing—Procedure.
75.28.485	Repealed.

75.28.500	Program to purchase fishing vessels, gear, licenses and permits—Finding and intent.
75.28.505	Program to purchase fishing vessels, gear, licenses and permits—Definitions.
75.28.510	Program to purchase fishing vessels, gear, licenses and permits—Authorized.
75.28.535	Program to purchase fishing vessels, gear, licenses and permits—Effective date—Administration—Vessel, gear, license and permit reduction fund.
75.28.540	Program to purchase fishing vessels, gear, licenses and permits—Time limitation to apply for participation—Completion of program.
75.28.600	Anadromous salmon angling licenses—Declaration of state policy.
75.28.610	Anadromous salmon angling licenses—Required—Penalty.
75.28.620	Anadromous salmon angling licenses—Issuance—Rules.
75.28.630	Anadromous salmon angling licenses—Fees—"Resident" defined—Exemptions.
75.28.640	Anadromous salmon angling licenses—Issuer's compensation.
75.28.650	Anadromous salmon angling licenses—Nontransferable—Enforcement provisions.
75.28.660	Anadromous salmon angling licenses—Falsification—Penalty.
75.28.670	Anadromous salmon angling licenses—Concurrent waters of Columbia river—Reciprocity.

75.28.095 Charter boat license—Restrictions. Every owner of a vessel used as a charter boat from which salmon and other food fish are taken for personal use shall obtain a yearly charter boat license for each such vessel, and the fee for said license shall be two hundred dollars per annum: *Provided*, That every owner of a vessel used as a charter boat from which only food fish other than salmon are taken for personal use shall obtain a yearly charter boat license for each vessel, and the fee for said license shall one hundred dollars per annum. "Charter boat" means any vessel from which persons may, for a fee, angle for food fish, and which delivers food fish taken from waters either within or without the territorial boundaries of the state of Washington into state ports.

No vessel may engage in both charter or sports fishing and commercial fishing on the same day. A vessel may be licensed for both charter boat fishing and for commercial fishing at the same time: *Provided*, That the license and delivery permit allowing the the activity not being engaged in shall be deposited with the fisheries patrol officer for that area or an agent designated by the director.

Nothing in this section shall be construed to mean that vessels not generally engaged in charter boat fishing, and under private lease or charter being operated by the lessee for the lessee's personal recreational enjoyment shall be included under the provisions of this section. [1977 1st ex.s. c 327 § 5; 1971 ex.s. c 283 § 15; 1969 c 90 § 1.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

Effective dates—1971 ex.s. c 283: See note following RCW 75.18.080.

Certain license fees double for nonresidents: RCW 75.28.375.

75.28.130 Troll line license. The fee for all licenses prescribed in this chapter employing troll lines in the taking of salmon shall be two hundred dollars per

annum. Each license shall entitle the licensee to use six or less troll lines.

The fee for all licenses prescribed in this chapter employing troll lines in the taking of food fish, other than salmon, shall be twenty-seven dollars and fifty cents per annum. Each license shall entitle the licensee to use six or less troll lines. [1977 1st ex.s. c 327 § 6; 1971 ex.s. c 283 § 7; 1965 ex.s. c 73 § 4; 1959 c 309 § 12; 1955 c 12 § 75.28.130. Prior: 1951 c 271 § 11; 1949 c 112 § 69(3); Rem. Supp. 1949 § 5780-507(3).]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

Effective dates—1971 ex.s. c 283: See note following RCW 75.18.080.

Certain license fees double for nonresidents: RCW 75.28.375.

75.28.140 Gill net license. The fee for all licenses prescribed in this chapter employing gill nets in the taking of food fish shall be two hundred dollars per annum.

A valid Grays Harbor-Columbia river or Willapa Harbor-Columbia river commercial salmon fishing gill net license shall also be valid when lawfully fishing for sturgeon, smelt and shad in the licensing district for which said license is issued. [1977 1st ex.s. c 327 § 7; 1971 ex.s. c 283 § 8; 1965 ex.s. c 73 § 5; 1959 c 309 § 13; 1955 c 12 § 75.28.140. Prior: 1951 c 271 § 12; 1949 c 112 § 69(4); Rem. Supp. 1949 § 5780-507(4).]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

Effective dates—1971 ex.s. c 283: See note following RCW 75.18.080.

Certain license fees double for nonresidents: RCW 75.28.375.

75.28.190 Purse seine (drum, table, power block) license. The fee for all licenses prescribed in this chapter employing purse seines (drum seines, table seines, power block seines) in the taking of food fish shall be three hundred dollars per annum. [1977 1st ex.s. c 327 § 8; 1971 ex.s. c 283 § 9; 1965 ex.s. c 73 § 10; 1959 c 309 § 18; 1955 c 12 § 75.28.190. Prior: 1951 c 271 § 17; 1949 c 112 § 69(9); Rem. Supp. 1949 § 5780-507(9).]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

Effective dates—1971 ex.s. c 283: See note following RCW 75.18.080.

Certain license fees double for nonresidents: RCW 75.28.375.

75.28.220 Reef net license. The fee for all licenses prescribed in this chapter employing reef nets in the taking of food fish shall be two hundred dollars per annum. [1977 1st ex.s. c 327 § 9; 1971 ex.s. c 283 § 10; 1965 ex.s. c 73 § 12; 1959 c 309 § 20; 1955 c 12 § 75.28.220. Prior: 1951 c 271 § 20; 1949 c 112 § 69(12); Rem. Supp. 1949 § 5780-507(12).]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

Effective dates—1971 ex.s. c 283: See note following RCW 75.18.080.

Certain license fees double for nonresidents: RCW 75.28.375.

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

75.28.450 Limitations upon salmon licenses and delivery permits—Intention.

Expiration date—RCW 75.28.450-75.28.480: "The provisions of RCW 75.28.450, 75.28.455 as now or hereafter amended, RCW 75.28.460, 75.28.465, 75.28.470, 75.28.475, and 75.28.480 shall automatically expire on December 31, 1980, unless such expiration date be removed or extended by subsequent action of the legislature." [1977 1st ex.s. c 106 § 8; 1974 ex.s. c 184 § 12.]

75.28.455 Limitation upon salmon licenses and delivery permits—Program to limit commercial salmon vessels—Qualifications for licensing.

On and after May 6, 1974, the department of fisheries of the state of Washington shall initiate a program to limit the number of commercial salmon vessels for each type of fishing gear and area by issuing licenses and vessel delivery permits to fish for salmon only to those vessels holding such licenses or permits in any year between January 1, 1970 and May 6, 1974: *Provided*, That only those vessels which held commercial gear fishing licenses or vessel delivery permits valid for salmon during such period and can prove by means of a valid fish receiving document that salmon were caught and landed during such period shall be entitled to a valid commercial fishing license or vessel delivery permit to fish for or possess salmon for the same type of gear and area for each year of a period extending from January 1, 1975 through December 31, 1980: *Provided further*, That except for vessels coming under the provisions of RCW 75.28.460, no commercial salmon fishing license or vessel delivery permit shall be issued to a vessel for calendar years 1979 and 1980 unless that vessel (1) was issued or had transferred to it a valid Washington state commercial salmon fishing license or vessel delivery permit during the previous calendar year, or during the last calendar year in which the vessel was legally eligible for licenses if the vessel's licenses were suspended or revoked during the calendar year or years previous to the year for which the licenses are being sought; and (2) can prove by means of a valid fish receiving document that food fish were caught and landed by such vessel in this state or in another state during the previous calendar year, or during the last calendar year in which the vessel was legally eligible for licenses if the vessel's licenses were suspended or revoked during the calendar year or years previous to the year for which the licenses are being sought: *Provided, however*, That nothing herein shall be construed to be contrary to the provisions of Title 75 RCW or any regulation promulgated thereunder. All such licenses or vessel delivery permits shall be transferable. [1977 1st ex.s. c 230 § 1; 1977 1st ex.s. c 106 § 7; 1974 ex.s. c 184 § 2.]

Severability—1977 1st ex.s. c 106: See note following RCW 75.30.010.

Expiration date: See note following RCW 75.28.450.

Severability—Expiration date—1974 ex.s. c 184: See notes following RCW 75.28.450.

75.28.460 Limitation upon salmon licenses and delivery permits—Salmon caught outside state waters—Single delivery permit—Fee.

Any commercial salmon fishing vessel not qualified for a commercial salmon fishing license or vessel delivery permit under

RCW 75.28.455 and wishing to land salmon caught outside the territorial waters of the state of Washington shall be able to obtain a single delivery vessel delivery permit. The fee for such permit shall be one hundred dollars. [1977 1st ex.s. c 327 § 4; 1974 ex.s. c 184 § 3.]

Expiration date: See note following RCW 75.28.450.

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

Severability—1974 ex.s. c 184: See note following RCW 75.28.450.

75.28.465 Limitation upon salmon licenses and delivery permits—Vessels under construction.

Expiration date: See note following RCW 75.28.450.

75.28.470 Limitation upon salmon licenses and delivery permits—Licensing of charter fishing vessels.

Expiration date: See note following RCW 75.28.450.

75.28.475 Limitation upon salmon licenses and delivery permits—Advisory boards of review—Travel expenses.

Expiration date: See note following RCW 75.28.450.

75.28.480 Limitation upon salmon licenses and delivery permits—Appeal to board of review—Hearing—Procedure.

Expiration date: See note following RCW 75.28.450.

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

75.28.500 Program to purchase fishing vessels, gear, licenses and permits—Finding and intent. The legislature finds that the protection, welfare, and economic well-being of the commercial fishing industry is important to the people of this state. There presently exists an overabundance of commercial fishing gear in our state waters which causes great pressure on the fishing resources. This results in great economic waste to the state and prohibits conservation and harvesting programs from achieving their goals. This adverse situation has been compounded by the federal court decisions, *United States of America et al. v. State of Washington et al.*, Civil No. 9213, United States District Court for the Western District of Washington, February 12, 1974, and *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon, 1969), as amended, affirmed, and remanded 529 F. 2d 570 (9th Cir., 1976). As a result, large numbers of commercial fishermen face personal economic hardship, and the state commercial fishing industry is confronted with economic difficulty. The public welfare requires that the state have the authority to purchase commercial fishing vessels, licenses, gear, and permits offered for sale, as appropriate, in a manner which will provide relief to the individual vessel owner, and which will effect a reduction in the amount of commercial fishing gear in use in the state so as to insure increased economic opportunity for those persons in the industry and to insure that sound scientific conservation and harvesting programs can be

carried out. It is the intention of the legislature to provide relief to commercial fishermen adversely affected by the current economic situation in the state fishery and to preserve this valuable state industry and these natural resources. [1977 1st ex.s. c 230 § 2; 1975 1st ex.s. c 183 § 2.]

Loan assistance program for commercial fishermen: Chapter 75.44 RCW.

75.28.505 Program to purchase fishing vessels, gear, licenses and permits—Definitions. As used in RCW 75.28.500 through 75.28.540, unless the context indicates otherwise:

(1) "Case areas" means those areas of the Western district of Washington and in the adjacent offshore waters which are within the jurisdiction of the state of Washington, as defined in *United States of America et al. v. State of Washington et al.*, Civil No. 9213, United States District Court for Western District of Washington, February 12, 1974, and in *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon, 1969), as amended, affirmed, and remanded 529 F. 2d 570 (9th Cir., 1976), or any area in which fishing rights are affected by court decision in a manner consistent with the above-mentioned decisions;

(2) "Department" means the department of fisheries;

(3) "Director" means the director of the department of fisheries. [1977 1st ex.s. c 230 § 3; 1975 1st ex.s. c 183 § 3.]

75.28.510 Program to purchase fishing vessels, gear, licenses and permits—Authorized. The department is authorized to purchase commercial fishing vessels and appurtenant gear, and the current commercial fishing licenses and delivery permits and charter boat licenses issued by the state of Washington if the vessel, licensee, or permit holder:

(1) Was licensed to fish or deliver fish during 1974, 1975, 1976, or 1977 within the case areas; and

(2) Was substantially restricted in its fishing season by the department as a result of compliance with *United States of America et al. v. State of Washington et al.*, Civil No. 9213, United States District Court for Western District of Washington, February 12, 1974, and *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon, 1969), as amended, affirmed, and remanded 529 F. 2d 570 (9th Cir., 1976).

The department shall not purchase any vessel without also purchasing all current Washington commercial fishing licenses and delivery permits and charter boat licenses issued to such vessel or its owner: *Provided*, That the department is authorized to purchase current licenses and delivery permits in the absence of the purchase of a vessel. [1977 1st ex.s. c 230 § 4; 1975 1st ex.s. c 183 § 4.]

75.28.535 Program to purchase fishing vessels, gear, licenses and permits—Effective date—Administration—Vessel, gear, license and permit reduction fund. The provisions of RCW 75.28.500 through 75.28.540 as now or hereafter amended, shall become effective on January 1, 1978, or thereafter, only upon receipt

by the department from the federal government of funds in an amount sufficient to administer such provisions and to accomplish its purposes.

The director shall be the responsible state officer for the administration of, and the disbursement of all funds, goods, commodities, and services, which may be received by the state in connection with the provisions of RCW 75.28.500 through 75.28.540 as now or hereafter amended. There is created within the state treasury a fund to be known as the "vessel, gear, license, and permit reduction fund", which shall be used for the purchase of vessels, licenses, permits, and fishing gear as provided in RCW 75.28.500 through 75.28.540 as now or hereafter amended, and for the administration of the provisions of RCW 75.28.500 through 75.28.540 as now or hereafter amended. This fund shall be credited with any federal or other funds received to carry out the purposes of RCW 75.28.500 through 75.28.540 as now or hereafter amended, and shall also be credited with all proceeds from the sale or other disposition of any property purchased pursuant to RCW 75.28.510 as now or hereafter amended. [1977 1st ex.s. c 230 § 5; 1975 1st ex.s. c 183 § 9.]

75.28.540 Program to purchase fishing vessels, gear, licenses and permits—Time limitation to apply for participation—Completion of program. No application for participation in the program provided for in RCW 75.28.500 through 75.28.540 shall be accepted by the department later than June 30, 1980. The director shall provide for the expeditious completion of the program thereafter and shall notify the state legislature when such provisions might appropriately be declared null and void. [1977 1st ex.s. c 230 § 6; 1975 1st ex.s. c 183 § 10.]

75.28.600 Anadromous salmon angling licenses—Declaration of state policy. The legislature, recognizing that anadromous salmon within the waters of the state and offshore waters are fished for both recreational and commercial purposes and that the recreational anadromous salmon fishery is a major recreational and economic asset to the state and improves the quality of life for all residents of the state, declares that it is the policy of the state to enhance and improve recreational anadromous salmon fishing in the state. [1977 1st ex.s. c 327 § 10.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

75.28.610 Anadromous salmon angling licenses—Required—Penalty. (1) It shall be unlawful for any person sixteen years of age or older, and under seventy years of age, to take, fish for, or have in his possession any anadromous salmon that is taken for personal use from the waters or offshore waters of this state, without first having obtained and having in his possession an anadromous salmon angling license as provided in RCW 75.28.630, unless otherwise exempt from state licensing laws.

(2) Every violation of this section is a misdemeanor punishable by a fine of not less than ten dollars nor more

than one hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both. [1977 1st ex.s. c 327 § 11.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

75.28.620 Anadromous salmon angling licenses—Issuance—Rules. All anadromous salmon angling licenses issued under RCW 75.28.630 shall be issued by or under authority of the director, who may deputize any reputable citizen to issue the licenses and collect the fees therefor.

The director shall adopt such rules as he deems necessary for the issuance of anadromous salmon angling licenses and for the collection, payment, and handling of fees prescribed in RCW 75.28.630 and 75.28.640. The rules shall be adopted in conformity with chapter 34.04 RCW. [1977 1st ex.s. c 327 § 12.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

75.28.630 Anadromous salmon angling licenses—Fees—"Resident" defined—Exemptions. (1) The fees for an annual resident fresh and saltwater anadromous salmon angling license and for an annual nonresident saltwater anadromous salmon angling license shall each be three dollars. The fees for a one day resident fresh and saltwater anadromous salmon angling license and for a one day nonresident saltwater anadromous salmon angling license shall each be one dollar. The fee for an annual nonresident freshwater anadromous salmon angling license shall be ten dollars. The fee for a three consecutive day nonresident freshwater anadromous salmon angling license shall be five dollars.

(2) Notwithstanding any other definitions in this title, the term "resident" as used in this section means any person who for at least thirty days immediately preceding any application for a license has maintained a permanent place of abode within this state and has established by formal evidence an intent to continue residence within this state. All other persons are nonresidents.

(3) An annual license shall be effective only during the calendar year in which it is issued. An annual license shall be valid for a maximum catch of thirty salmon after which another annual license may be purchased.

(4) Any person sixty-five or more years of age who is an honorably discharged veteran of the United States military or naval forces having a service-connected disability and who has been a resident of this state for five years, upon the making of an affidavit to this effect, shall be given an anadromous salmon angling license free of charge upon application therefor.

Any person who is blind shall be issued an anadromous salmon angling license free of charge upon application therefor.

Anadromous salmon angling licenses issued under this subsection shall be considered valid for the lifetime of the holder. [1977 1st ex.s. c 327 § 13.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

75.28.640 Anadromous salmon angling licenses—
Issuer's compensation. Any person deputized by the director to issue anadromous salmon angling licenses shall collect the sum of twenty-five cents in addition to the license fee, which sum shall be retained by such person. [1977 1st ex.s. c 327 § 14.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

75.28.650 Anadromous salmon angling licenses—
Nontransferable—Enforcement provisions. Anadromous salmon angling licenses shall not be transferable. Any person fishing for anadromous salmon or having anadromous salmon in his or her possession that are taken for personal use from the waters of this state or offshore waters shall, upon demand of any fisheries patrol officer, fisheries inspector, deputy fisheries inspector, game protector, or law enforcement officer within their respective jurisdiction, exhibit his or her license and write his or her name for the purpose of comparison with the signature on the license. Failure to exhibit the license and to write the name upon demand shall be prima facie evidence that the person has no license or is not the person named on the license in the person's possession. [1977 1st ex.s. c 327 § 15.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

75.28.660 Anadromous salmon angling licenses—
Falsification—Penalty. Any person who knowingly falsifies any information required for the issuance of an anadromous salmon angling license shall be guilty of a misdemeanor. [1977 1st ex.s. c 327 § 16.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

75.28.670 Anadromous salmon angling licenses—
Concurrent waters of Columbia river—Reciprocity. In concurrent waters of the Columbia river where the river forms the boundary between the state of Washington and the state of Oregon and in Washington coastal territorial waters from the Oregon-Washington boundary to a point five nautical miles north, an Oregon angling license comparable to the Washington anadromous salmon angling license shall be valid if the Oregon license is valid within the jurisdiction of Oregon and the state of Oregon recognizes as valid the Washington anadromous salmon angling license in comparable Oregon waters.

Nothing in this section shall be construed to mean that any Oregon licenses are valid for the taking of salmon when angling in concurrent waters of the Columbia river from the Washington shore. [1977 1st ex.s. c 327 § 17.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

[1977 RCW Supp—page 742]

Chapter 75.30 SALMON CHARTER BOAT LICENSING LIMITATIONS

Sections	
75.30.010	Legislative findings.
75.30.020	Moratorium on issuance of licenses—Renewals— Transfers.
75.30.030	Charter boats under construction or purchased between April 16, 1976 and May 28, 1977.
75.30.040	Duty of department to evaluate and recommend phase II approach.
75.30.050	Advisory board of review.
75.30.060	Hearings.

75.30.010 Legislative findings. The legislature finds that the wise management and economic health of the state's salmon fishery are of continued importance to the people of the state and to the economy of the state as a whole. The legislature finds that charter boats licensed by the state for use by the state's charter boat fishing industry have increased in quantity. The legislature finds that limitations on the number of licensed charter boats will tend to improve the management of the charter boat fishery and the economic health of the charter boat industry. The state therefore must use its authority to regulate the number of licensed boats in use by the state's charter boat industry in a manner provided in this chapter so that management and economic health of the salmon fishery may be improved. [1977 1st ex.s. c 106 § 1.]

Severability—1977 1st ex.s. c 106: "If any provision of this 1977 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." [1977 1st ex.s. c 106 § 10.]

Expiration date—1977 1st ex.s. c 106 §§ 1-6: "The provisions of sections 1 through 6 of this 1977 amendatory act shall expire on December 31, 1980, and shall be null and void and without any further force and effect on such date without any further action by the legislature." [1977 1st ex.s. c 106 § 11.]

75.30.020 Moratorium on issuance of licenses—
Renewals—Transfers. For the purposes of this chapter, the term "charter boat" shall refer only to those charter boats from which salmon are taken. On and after May 28, 1977, the department shall initiate a moratorium on the issuance of charter boat licenses by issuing such licenses only to those boats whose owners can prove by means of good and sufficient documentary evidence that the boat was licensed pursuant to RCW 75.28.095 between January 1, 1974, and January 1, 1977. No charter boat shall be entitled to more than one charter boat license.

Such boats shall be entitled to receive and renew the charter boat license for each year during the period from May 28, 1977 through December 31, 1980. A charter boat license for which no application is made to the department or which is not renewed in any year automatically expires and shall not be renewed further.

Nothing herein shall be construed to be contrary to the provisions of Title 75 RCW or any rule promulgated thereunder. All such charter boat licenses shall be transferable. [1977 1st ex.s. c 106 § 2.]

Severability—1977 1st ex.s. c 106: See note following RCW 75.30.010.

Expiration date—1977 1st ex.s. c 106 §§ 1-6: See note following RCW 75.30.010.

75.30.030 Charter boats under construction or purchased between April 16, 1976 and May 28, 1977. In addition to the charter boat licenses issued pursuant to RCW 75.30.020, the department shall issue a charter boat license to any charter boat which was under construction or purchased in good faith between April 16, 1976, and May 28, 1977. [1977 1st ex.s. c 106 § 3.]

Severability—1977 1st ex.s. c 106: See note following RCW 75.30.010.

Expiration date—1977 1st ex.s. c 106 §§ 1-6: See note following RCW 75.30.010.

75.30.040 Duty of department to evaluate and recommend phase II approach. On and after May 28, 1977, the department, in cooperation with representatives of the charter boat industry, shall continually evaluate the provisions of RCW 75.30.010, 75.30.020, and 75.30.030 and recommend to the legislature prior to January 1, 1980, a phase II approach to regulate gear entry into this state's charter boat fishery. [1977 1st ex.s. c 106 § 4.]

Severability—1977 1st ex.s. c 106: See note following RCW 75.30.010.

Expiration date—1977 1st ex.s. c 106 §§ 1-6: See note following RCW 75.30.010.

75.30.050 Advisory board of review. The director shall appoint a three member advisory board of review to hear cases as provided in RCW 75.30.060. The members of such review board shall be nominated by the charter boat fishing industry, shall serve without pay, and shall serve at the discretion of the director of the department of fisheries. The members of such review board shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. The director may promulgate rules concerning the operation of such review boards in accordance with chapter 34.04 RCW. [1977 1st ex.s. c 106 § 5.]

Severability—1977 1st ex.s. c 106: See note following RCW 75.30.010.

Expiration date—1977 1st ex.s. c 106 §§ 1-6: See note following RCW 75.30.010.

75.30.060 Hearings. Any person aggrieved by a decision of the department made pursuant to the terms of this chapter may voluntarily request that a board of review be impaneled to hear such person's case.

The board of review may make such other recommendations and determinations as are consistent with the terms of this chapter.

Hearings before review boards shall be informal, the rules of evidence shall not be applicable to the proceedings, and the records shall be kept thereof as provided by chapter 34.04 RCW. After the presentation of a case each review board shall inform the director and the initiating party in writing concerning whether or not the review board recommends that the charter boat license

be issued and the reason for such recommendation. Upon receipt of the review board's findings the director may order such relief as the director deems appropriate under the circumstances.

Nothing in this section shall be construed: (1) To impair an aggrieved person's right to proceed under chapter 34.04 RCW; or (2) to impose any liability on members of a review board for their action pursuant to this section. [1977 1st ex.s. c 106 § 6.]

Severability—1977 1st ex.s. c 106: See note following RCW 75.30.010.

Expiration date—1977 1st ex.s. c 106 §§ 1-6: See note following RCW 75.30.010.

Chapter 75.32

PRIVILEGE FEES AND FISH SALES TAXES

Sections

75.32.003	"Food fish and shellfish" include parts.
75.32.020	Privilege fees and fish sales taxes required.
75.32.030	Canners, processors, dealers—Privilege fees.
75.32.033	Credits against privilege fees owed under RCW 75.32.030.
75.32.035	Rules as to proof required for credits claimed under RCW 75.32.033.
75.32.051	Oyster canners, processors, dealers—Privilege fee.
75.32.055	Fish sales tax—Imposed—Rates—Exemptions.
75.32.065	Payment of privilege fees and fish sales tax—Food fish or shellfish handled by original receivers—Sales to nonresident purchasers.
75.32.070	Repealed. (Effective January 1, 1978.)
75.32.080	Collection of fish sales tax by original receiver—"Original receiver" defined.
75.32.090	When privilege fees and fish sales taxes due and payable—Returns.
75.32.101	Delinquent payments—Penalties—Interest—Lien—Date of filing governed by postmark.
75.32.110	Director may make rules, etc., to insure payment of fees and taxes.
75.32.115	Audits—Rules and procedures.

75.32.003 "Food fish and shellfish" include parts.

As used in this chapter, the terms food fish and shellfish also include parts of food fish and shellfish. [1977 1st ex.s. c 327 § 25.]

Severability—**Effective date**—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

75.32.020 Privilege fees and fish sales taxes required. In addition to all other taxes, licenses or fees provided by law there shall be paid to the state of Washington by those engaged in the fishing industry in this state the privilege fees and fish sales taxes as provided for in this chapter. [1977 1st ex.s. c 327 § 19; 1955 c 12 § 75.32.020. Prior: 1949 c 107 § 1, part; Rem. Supp. 1949 § 5780-60, part.]

Severability—**Effective date**—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

75.32.030 Canners, processors, dealers—Privilege fees. Canners, curers, freezers, wholesale dealers and retail dealers of food fish and shellfish, other than oysters, and manufacturers of food fish and shellfish byproducts, other than oyster byproducts, (1) shall pay a privilege fee equal to five percent of the primary market

value on all fresh or frozen chinook, coho, and chum salmon, or parts thereof, which they receive, handle, deal in, or deal with as original receiver in the state; (2) shall pay a privilege fee equal to three percent of the primary market value on all fresh or frozen pink and sockeye salmon, or parts thereof, which they receive, handle, deal in, or deal with as original receiver in the state; and (3) shall pay a privilege fee equal to two percent of the primary market value on all other fresh or frozen food fish and shellfish, or parts thereof, except oysters, which they receive, handle, deal in or deal with, as original receiver in the state: *Provided*, That any person or sales agency selling fresh or frozen food fish or shellfish, or parts thereof, to purchasers of food fish or shellfish residing outside the state of Washington which had been previously landed in the state, shall be responsible for and shall pay the privilege fees herein provided. [1977 1st ex.s. c 327 § 20; 1963 ex.s. c 10 § 1; 1955 c 212 § 12; 1955 c 12 § 75.32.030. Prior: 1953 c 207 § 6; 1951 c 271 § 34; 1949 c 107 § 1(1); Rem. Supp. 1949 § 5780-60(1).]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

75.32.033 Credits against privilege fees owed under RCW 75.32.030. The following amounts may be credited against the amount of privilege fees owed under RCW 75.32.030 by a canner, curer, dealer, freezer, or manufacturer:

(1) In respect to each transaction in which the fish sales tax is collected pursuant to RCW 75.32.080, as now or hereafter amended, and a privilege fee is owed, the amount of the sales tax collected shall be credited against such privilege fee.

(2) Any sales tax, catch tax, landing tax, or other tax or fee on food fish or shellfish, or parts thereof, purchased by an original receiver, as defined in RCW 75.32.080, as now or hereafter amended, in another state and imposed on the receiver by such state shall be credited against the amount of privilege fees owed in respect to such food fish or shellfish, or parts thereof. [1977 1st ex.s. c 327 § 23.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

75.32.035 Rules as to proof required for credits claimed under RCW 75.32.033. The director shall adopt rules specifying the proof required for credits claimed under RCW 75.32.033 and the manner in which the credits shall be taken. [1977 1st ex.s. c 327 § 24.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

75.32.051 Oyster canners, processors, dealers—Privilege fee. Cannery, curers, freezers, wholesale dealers and retail dealers of oysters, and manufacturers of oyster byproducts, shall pay a privilege fee equal to one cent per gallon or bushel on Pacific oysters, and six and one-half cents per gallon or bushel on Olympia oysters, New Washington oysters, or Kumamoto oysters which they receive, handle, deal in, or deal with as original receiver in this state: *Provided*, That any person or sales

agency selling fresh or frozen oysters, or parts thereof, previously taken in the state to purchasers of food fish or shellfish residing outside the state of Washington, shall be responsible for and shall pay the privilege taxes herein provided. [1977 1st ex.s. c 327 § 21; 1955 c 212 § 13.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

75.32.055 Fish sales tax—Imposed—Rates—Exemptions. (1) Except as provided in subsection (2) of this section, there is hereby imposed a fish sales tax on the privilege of selling food fish or shellfish, or parts thereof, to an original receiver as defined in RCW 75.32.080, as now or hereafter amended. The tax shall be as follows:

(a) Two and one-half percent of the primary market value on all fresh or frozen chinook, coho, and chum salmon, or parts thereof;

(b) One and one-half percent of the primary market value on all fresh or frozen pink and sockeye salmon, or parts thereof;

(c) One percent of the primary market value on all other fresh or frozen food fish and shellfish, or parts thereof.

(2) The sales tax prescribed in this section shall not apply to sales of shellfish, or parts thereof, taken from a licensed oyster or clam farm or to sales of food fish or shellfish, or parts thereof, taken from a licensed fish farm. [1977 1st ex.s. c 327 § 22.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

75.32.065 Payment of privilege fees and fish sales tax—Food fish or shellfish handled by original receivers—Sales to nonresident purchasers. (1) The privilege fees and fish sales taxes provided for in this chapter shall be paid on all fresh or frozen food fish or shellfish handled by the original receivers regardless of where the fish or shellfish were caught: *Provided*, That no fee or tax shall be paid on frozen food fish or frozen shellfish or on food fish or shellfish which has been packaged for retail sales and that has been previously landed in another state, territory, or country.

(2) Any person or sales agency selling fresh or frozen food fish or shellfish previously landed in this state to purchasers of food fish or shellfish residing outside this state shall be responsible for and shall pay the privilege fees and fish sales taxes. [1977 1st ex.s. c 327 § 26.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

75.32.070 Repealed. (Effective January 1, 1978.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

75.32.080 Collection of fish sales tax by original receiver—"Original receiver" defined. The fish sales tax provided for herein shall be deducted from the payments made by the original receiver to the person selling the food fish or shellfish to the original receiver, and the

original receiver shall collect the taxes and remit them to the director.

"Original receiver" means the person first receiving, handling, dealing in, or dealing with the fresh or frozen food fish or shellfish within the jurisdiction of the state of Washington as a canner, curer, freezer, retail dealer, wholesale dealer, byproducts manufacturer, or branch plant. [1977 1st ex.s. c 327 § 27; 1955 c 12 § 75.32.080. Prior: 1953 c 207 § 8; 1951 c 271 § 36; 1949 c 107 § 1(5), part; Rem. Supp. 1949 § 5780-60(5), part.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

75.32.090 When privilege fees and fish sales taxes due and payable—Returns. The privilege fees and fish sales taxes herein provided for are due and payable in quarterly installments, and the fees and taxes accruing during each quarterly period shall become due on the first day of the month immediately following the end of the quarterly period, and shall be paid on or before the last day of that month. The following shall constitute the quarterly periods to be utilized:

- (1) January, February, March;
- (2) April, May, June;
- (3) July, August, September;
- (4) October, November, December.

On or before the day payment is required as provided above, the person paying the privilege fees and fish sales taxes to the department shall prepare a return under oath upon such forms and setting forth such information as the director may require, and transmit the same to the director together with a remittance for the fees and taxes which are due. Any person that is subject at any time of the year to the privilege fee provisions set forth in this chapter shall file a return each quarter of the year showing whether or not any fees or taxes are due. [1977 1st ex.s. c 327 § 28; 1967 c 193 § 1; 1963 ex.s. c 9 § 1; 1955 c 12 § 75.32.090. Prior: 1949 c 107 § 2; Rem. Supp. 1949 § 5780-61.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

75.32.101 Delinquent payments—Penalties—Interest—Lien—Date of filing governed by post-mark. In the event payment of fees and taxes provided for under this chapter is not received by the fifteenth day of the month in which the fees and taxes become due, the fees and taxes shall become delinquent and the schedule of penalties stated below shall be invoked. A return or remittance which is transmitted to the director by United States mail shall be deemed filed or received on the date shown by the post office cancellation mark stamped upon the envelope containing it. The following shall be the schedule of penalties to be assessed for delinquent payments of such fees and taxes:

- (1) Sixteen through thirty days after due date—Add ten percent of total fees and taxes due but not less than one dollar.
- (2) Thirty-one through sixty days after due date—Add twenty percent of total fees and taxes due but not less than two dollars.

(3) Sixty-one through ninety days after due date—Add twenty-five percent of total fees and taxes due but not less than three dollars.

(4) Ninety-one days or more after due date—Add twenty-five percent of total fees and taxes due (but not less than three dollars) plus eight percent interest per annum computed on the sum of the total fees and taxes due and the percentage penalty.

The delinquent fees and taxes together with the applicable penalties and accrued interest thereon shall constitute a first lien upon the cannery, packing plant, buildings, scows, boats, vehicles and other equipment used by the person or business owing the fees and taxes in the taking, handling, dealing in, dealing with, or processing of food fish or shellfish. [1977 1st ex.s. c 327 § 29; 1963 ex.s. c 9 § 2.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

75.32.110 Director may make rules, etc., to insure payment of fees and taxes. The director shall have the authority to promulgate such rules, regulations, and orders, and to require such reports as in his judgment shall be necessary to insure the payment of the fees and taxes herein required. [1977 1st ex.s. c 327 § 30; 1955 c 12 § 75.32.110. Prior: 1949 c 107 § 4; Rem. Supp. 1949 § 5780-63.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

75.32.115 Audits—Rules and procedures. The department or its designee may audit any original receiver as defined in RCW 75.32.080, as now or hereafter amended, for the purpose of assuring the collection of privilege fees and fish sales taxes provided for in this chapter, or for the purpose of collecting unpaid fees and taxes. The director may adopt rules and procedures to govern the collection of any fees and taxes under this chapter. [1977 1st ex.s. c 327 § 31.]

Severability—Effective date—1977 1st ex.s. c 327: See notes following RCW 75.18.100.

**Chapter 75.40
COMPACTS**

Sections
75.40.050 Offshore fishing in Pacific—Rules and regulations.

75.40.050 Offshore fishing in Pacific—Rules and regulations. In the event the compact set forth in RCW 75.40.030 becomes effective, the director shall have the power and he is hereby authorized from time to time to make, adopt, amend and promulgate, governing offshore fishing in the Pacific Ocean by citizens of this state, rules and regulations, prohibiting wastage of food or shellfish, establishing open and closed season for all fishing, designating areas open or closed to fishing, setting minimum and maximum sizes of fish and shellfish that may be taken, declaring the kinds of food or shellfish that may be used for bait, and regulating fishing gear to be used as to mesh, size and length of nets and

number, length and size of line and hooks: *Provided, however,* That the Washington department of fisheries may adopt regulations for the waters west of the coast of the state of Washington that are consistent with the regulations adopted by the United States department of commerce for the waters three miles to two hundred miles west of the coast of the state of Washington pursuant to the National Fisheries Conservation and Management Act. [1977 1st ex.s. c 100 § 1; 1955 c 12 § 75.40.050. Prior: 1949 c 112 § 82(3); Rem. Supp. 1949 § 5780-703(3).]

Chapter 75.48

SALMON ENHANCEMENT FACILITIES BOND ISSUE

Sections

75.48.010	Legislative finding.
75.48.020	Issuance of general obligation bonds authorized— Purpose—Use—Terms—Appropriation required.
75.48.030	Disposition of proceeds—Salmon enhancement construction account.
75.48.040	Administration of proceeds.
75.48.050	"Facilities" defined.
75.48.060	Form, terms, conditions, etc.
75.48.070	Anticipation notes—Authorized—Payment of principal and interest on bonds and notes.
75.48.080	Salmon enhancement construction bond retirement fund—Created—Purpose.
75.48.090	Annual report to legislature.
75.48.100	Availability of sufficient revenue required before bonds issued.
75.48.110	Bonds legal investment for public funds.

75.48.010 Legislative finding. The long range economic development goals for the state of Washington must include the restoration of salmon runs to provide an increased supply of this renewable resource for the benefit of commercial and recreational users and the economic well-being of the state. [1977 1st ex.s. c 308 § 1.]

75.48.020 Issuance of general obligation bonds authorized—Purpose—Use—Terms—Appropriation required. For the purpose of providing funds for the planning, acquisition, construction, and improvement of salmon hatcheries, other salmon propagation facilities including natural production sites, and necessary supporting facilities within the state, the state finance committee is authorized to issue, at any time prior to January 1, 1985, general obligation bonds of the state of Washington in the sum of thirty-one million five hundred thousand 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 thirty years. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of such bonds to be sold. [1977 1st ex.s. c 308 § 2.]

75.48.030 Disposition of proceeds—Salmon enhancement construction account. The proceeds from the sale of bonds authorized by this chapter shall be deposited in the salmon enhancement construction

account hereby created in the general fund and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. [1977 1st ex.s. c 308 § 3.]

75.48.040 Administration of proceeds. The proceeds from the sale of the bonds deposited in the salmon enhancement construction account of the general fund under the terms of this chapter shall be administered by the state department of fisheries subject to legislative appropriation. [1977 1st ex.s. c 308 § 4.]

75.48.050 "Facilities" defined. As used in this chapter, the term "facilities" means salmon propagation facilities including, but not limited to, all equipment, utilities, structures, real property, and interests in and improvements on real property, as well as stream bed clearing, for or incidental to the acquisition, construction, or development of salmon propagation facilities. [1977 1st ex.s. c 308 § 5.]

75.48.060 Form, terms, conditions, etc. 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 authorized in this chapter shall be sold for less than their par value. [1977 1st ex.s. c 308 § 6.]

75.48.070 Anticipation notes—Authorized—Payment of principal and interest on bonds and notes. 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 the bonds and notes. [1977 1st ex.s. c 308 § 7.]

75.48.080 Salmon enhancement construction bond retirement fund—Created—Purpose. The salmon enhancement construction bond retirement fund 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 30th of each year, 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. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw from any general state

revenues received in the state treasury and deposit in the salmon enhancement construction bond retirement fund an amount equal to the amount certified by the state finance committee to be due on such payment date. 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. [1977 1st ex.s. c 308 § 8.]

75.48.090 Annual report to legislature. The director of the department of fisheries shall report to the legislature on or before January 1 of each year on the revenues received from the sport and commercial salmon license sales and from salmon privilege taxes for the previous fiscal year and estimates of the revenues to be received for the current and ensuing fiscal years.

The report shall also include the estimates of the amounts required from these revenues for the payment of principal and interest on the bonds authorized by this chapter and proposals for the use of any remaining revenues for salmon enhancement purposes. The report shall also include a progress report on the current salmon enhancement programs.

The report shall be given to the following standing committees: the house committee on appropriations, the senate committee on ways and means, and the house and senate committees on natural resources. [1977 1st ex.s. c 308 § 9.]

75.48.100 Availability of sufficient revenue required before bonds issued. The bonds authorized by this chapter shall be issued only after the director of the department of fisheries has certified, based upon reasonable estimates and data provided to the department, that sufficient revenues will be available from sport and commercial salmon license sales and from salmon fees and taxes to meet the requirements of RCW 75.48.080 during the life of the bonds. [1977 1st ex.s. c 308 § 10.]

75.48.110 Bonds legal investment for public funds. The bonds authorized in this chapter shall be a legal investment for all state funds or for funds under state control and for all funds of any other public body. [1977 1st ex.s. c 308 § 11.]

- 76.04.050 Duties of supervisor—Forest assistants.
- 76.04.350 Owners to protect forests.
- 76.04.360 Fire patrol assessments—Lien—Supervisor's bond.
- 76.04.390 Negligent starting of fires—Permitting existence of extreme fire hazard or forest debris—Liability for costs—Recovery.

76.04.010 Definitions. As used in this chapter:

"Additional fire hazard" means a condition of forest land resulting from the existence of forest debris so located and in such amounts and flammability as to readily support, intensify and/or continue the spread of fire beyond the spread that would occur in the absence of such debris or if the debris had been abated in a manner approved by the department of natural resources;

"Department" means the department of natural resources or its authorized representatives;

"Director" means the director of conservation and development as that term occurred in pre-1957 law and means the department in all subsequent law;

"Supervisor" means the supervisor of forestry as that term occurred in pre-1957 law and means the department in all subsequent law;

"Emergency fire costs" means those costs incurred or approved by the department for emergency forest fire suppression, including the employment of men, rental of equipment, and purchase of supplies over and above costs regularly budgeted and provided for nonemergency fire expenses for the biennium in which such costs occur;

"Forest debris" includes forest slashing, chopping, and any other vegetative residue resulting from activities on forest land;

"Forest fire service" includes all wardens, rangers, and other help employed especially for preventing or fighting forest fires;

"Forest land" means any land which has enough timber, standing or down, or flammable material, to constitute in the judgment of the department a fire menace to life or property: *Provided*, That sagebrush and grass areas east of the summit of the Cascade mountains are not included unless such areas are adjacent to or intermingled with areas supporting tree growth;

"Forest landowner", "owner of forest land", "landowner", or "owner" means the owner or the person in possession of any public or private forest land defined in this section;

"Forest material" means forest slashing, chopping, woodland, or brushland;

"Landowner operation" means every activity, and supporting activities, of a forest landowner, his agents, employees, or independent contractors or permittees therewith in the management and use of forest land for the primary benefit of the owner. Such activities may include, but are not limited to, the growing and harvesting of forest products, development of transportation systems, utilization of mineral or other natural resources, disposing of forest debris, and the clearing of land: *Provided*, That recreational and/or residential activities not associated with the above shall not be included;

Title 76

FORESTS AND FOREST PRODUCTS

Chapters

- 76.04 Forest protection.
- 76.12 Reforestation.
- 76.48 Specialized forest products.

Chapter 76.04

FOREST PROTECTION

Sections

- 76.04.010 Definitions.

"Participating landowner" means an owner of forest land, which land is subject to the forest patrol assessment provided in RCW 76.04.360 as now or hereafter amended;

"Suppression" means all activities involved in the containment and control of forest fires, including the patrolling thereof until such fires are extinguished or deemed by the department of natural resources to pose no further threat to life or property. [1977 1st ex.s. c 102 § 2; 1971 ex.s. c 207 § 1; 1951 c 58 § 1. Prior: (i) 1911 c 125 § 1; RRS § 5781. (ii) 1911 c 125 § 4, part; RRS § 5784, part. (iii) 1917 c 105 § 6; RRS § 5809.]

Reviser's note: Compare the definition of "Forest fire service" in this section with the definition in RCW 76.04.050.

Construction—1971 ex.s. c 207: "Nothing in this 1971 amendatory act shall be construed to repeal, affect, or limit either directly, indirectly, or by implication any claims or liability for costs incurred by the department or others prior to the effective date of this 1971 amendatory act." [1971 ex.s. c 207 § 18.] This applies to RCW 76.04.385, 76.04.515, 76.04.520, to the 1971 amendments to RCW 76.04.010, 76.04.180, 76.04.310, 76.04.360, 76.04.370, 76.04.380, 76.04.390, 76.04.510, 76.08.010, 76.08.050, 76.08.060, and to the repeal of RCW 76.04.040 and 76.04.230.

Severability—1951 c 58: "If any section, subdivision, sentence or clause in this act shall be held invalid or unconstitutional, such holding shall not affect the validity of the remaining portions of the act." [1951 c 58 § 11.]

76.04.050 Duties of supervisor—Forest assistants. The forester may at his discretion, subject to the approval of the board, appoint trained forest assistants, possessing technical qualifications, and may employ necessary clerical assistants, and fix the amount of their respective salaries, which shall be payable in equal monthly installments to each assistant so appointed or employed.

He shall act as secretary of the board, or he may delegate that duty to one of his assistants. He shall, acting under the supervision of the board, and whenever he may deem it necessary to the best interests of the state, cooperate in forest surveys, in forest studies, in forest products studies, in forest fire fighting and patrol, and in the preparation of plans for the protection, management, replacement of trees, wood lots, and timber tracts, with any of the several departments of the governments of other states, and with the government or with the departments of the government of the United States with the Dominion of Canada, or with any province thereof, and with counties, towns, corporations, and individuals within the state of Washington.

He shall, subject to the rules and regulations of the board, have direct charge and supervision of all matters pertaining to forestry, including the forest fire service of the state.

The term "forest fire service" as used in *this act shall be held to include all wardens, rangers and help especially employed for preventing or fighting forest fires.

In times of emergency or unusual danger the forester is empowered to mass the forest fire service of the state where its presence might be required by reason of forest fires, and to take charge of, and direct the work of suppressing such fires.

The forester shall enforce all laws for the preservation of the forests within the state, investigate the origin of all forest fires, and vigorously prosecute all violators of *this act.

The forester may, with the approval of the board, publish for free distribution, information pertaining to forestry, and to forest products, which he may consider of benefit to the people of the state.

The forester shall furnish notices calling attention to the dangers from forest fires, and to the penalties for the violation of *this act; such notices to be posted in conspicuous places by the wardens or rangers in all timbered districts along roads and trails, streams and lakes, frequented by tourists, campers, hunters and fishermen, and in other visited regions.

The forester shall, subject to the approval of the board, prepare all necessary printed forms for use of wardens and rangers, in connection with the granting of applications for permits to burn; for the appointment of wardens and rangers, and any and all forms or blanks required or desirable, and shall supply each warden and ranger with such forms and blanks.

The forester shall become familiar with the location and the areas of all state timbered and cut-over lands, and shall prepare maps of each of the timbered counties showing the state land therein, and in all ways that are practical and feasible protect such lands from the dangers of fire, trespass, and the illegal cutting of timber, reporting from time to time direct to the board such information as may be of benefit to the state in the care and protection of its timber.

It shall be the duty of the forester to institute inquiry into the extent, kind, value and condition of all timber lands within the state; the amount of acres, and the value of the timber that is cut and removed each year, to determine what state lands are chiefly valuable for growing timber; the extent to which timber lands are being destroyed by fire; and also to examine into the production, quality and quantity of second growth timber, with a view to ascertaining conditions for reforestation. [1977 c 75 § 88; 1911 c 125 § 4; RRS § 5784. Prior: 1905 c 164 § 4; 1903 c 114 § 8. Formerly RCW 76.04.010, part, and 76.04.050.]

Reviser's note: (1) The 1941 Code Committee divided and codified this section as RCW 76.04.050 and 76.04.010 which latter section was subsequently amended by 1951 c 58 § 1. In particular the definition of "forest fire service" contained herein should be compared with the definition in RCW 76.04.010.

(2) *this act", see note following RCW 76.04.030.

(3) "board", "forester", see note following RCW 76.04.020.

76.04.350 Owners to protect forests. Every owner of forest land in the state of Washington shall furnish or provide therefor, during the season of the year when there is danger of forest fires, adequate protection against the spread of fire thereon or therefrom which shall meet with the approval of the department of natural resources. [1977 1st ex.s. c 102 § 3; 1941 c 168 § 2; 1917 c 105 § 1; Rem. Supp. 1941 § 5804.]

76.04.360 Fire patrol assessments—Lien—Supervisor's bond. If any owner of forest land neglects or fails to provide adequate fire protection therefor as

required by RCW 76.04.350, the department shall provide such protection therefor, notwithstanding the provisions of RCW 76.04.520, at a cost to the owner of not to exceed eighteen cents an acre per year on lands west of the summit of the Cascade mountains and fourteen cents an acre per year on lands east of the summit of the Cascade mountains.

For the purpose of chapter 76.04 RCW, the supervisor may divide the forest lands of the state, or any part thereof, into districts, for patrol and assessment purposes, may classify lands according to the character of timber prevailing, and the fire hazard existing, and place unprotected lands under the administration of the proper district. Such cost must be justified by a showing of budgets on demand of twenty-five owners of forest land in the county concerned at public hearing. Any amounts paid or contracted to be paid by the supervisor of the department of natural resources for this purpose from any funds at his disposal shall be a lien upon the property patrolled and protected, and unless reimbursed by the owner within ten days after October 1st of the year in which they were incurred, on which date the supervisor of the department of natural resources shall be prepared to make statement thereof upon request to any forest owner whose own protection has not been previously approved by him as adequate, shall be reported by the supervisor of the department of natural resources to the assessor of the county in which the property is situated who shall extend the amounts upon the tax rolls covering the property, or the county assessor may upon authorization from the supervisor of the department of natural resources levy the forest patrol assessment against the amounts of unimproved land as shown in each ownership on the county assessor's records and the assessor may then segregate on his records to provide that the improved land and improvements thereon carry the millage levy designed to support the rural fire protection districts as provided for in chapter 52.04 RCW.

The amounts assessed shall be collected at the time, in the same manner, by the same procedure, and with the same penalties attached that the next general state and county taxes on the same property are collected, except that errors in assessments may be corrected at any time by the supervisor of the department of natural resources certifying them to the treasurer of the county in which the land involved is situated. Upon the collection of such assessments the county treasurer shall transmit them to the supervisor of the department of natural resources to be applied against expenses incurred in carrying out the provisions of this section.

The supervisor of the department of natural resources shall include in the assessment a sum not to exceed one-half of one cent per acre, to cover the necessary and reasonable cost of office and clerical work incurred in the enforcement of these provisions. He may also expend any sums collected from owners of forest lands or received from any other source for necessary office and clerical expense in connection with the enforcement of RCW 76.04.370.

When land against which forest patrol assessments are outstanding is acquired for delinquent taxes and sold at public auction, the state shall have a prior lien on the

proceeds of sale over and above the amount necessary to satisfy the county's delinquent tax judgment, and the county treasurer in case the proceeds of sale exceed the amount of the delinquent tax judgment shall forthwith remit to the supervisor of the department of natural resources the amount of the outstanding patrol assessments.

All public bodies owning or administering forest lands shall pay the forest patrol assessments provided in this section and the special forest fire suppression account assessments under RCW 76.04.515. The forest patrol assessments and special forest fire suppression account assessments shall be payable by public bodies from any available funds within thirty days following receipt of the written notice from the department which is given after October 1st of the year in which the protection was provided. Unpaid assessments shall not be a lien against the publicly owned land but shall constitute a debt by the public body to the department and shall be subject to interest charges in the same amount as other unpaid forest patrol assessments.

A public body, having failed to previously pay forest patrol assessments required of it by this section, which fails to suppress a fire on or originating from forest lands owned or administered by it shall be liable for the costs of suppression incurred by the department or its agent and shall not be entitled to reimbursement of any costs incurred by the public body in the suppression activities.

The supervisor of the department of natural resources shall furnish the surety company bond under RCW 43.30.170(6), conditioned for the faithful performance of his duties and for a faithful accounting for all sums received and expended thereunder, which bond shall be approved by the attorney general. [1977 1st ex.s. c 102 § 1. Prior: 1973 1st ex.s. c 195 § 87; 1973 1st ex.s. c 182 § 1; 1971 ex.s. c 207 § 14; 1959 c 123 § 1; 1955 c 142 § 14; 1951 c 58 § 8; 1925 ex.s. c 43 § 6; 1923 c 184 § 10; 1921 c 64 § 1; 1917 c 105 § 2; RRS § 5805.]

Construction—1971 ex.s. c 207: See note following RCW 76.04.010.

76.04.390 Negligent starting of fires—Permitting existence of extreme fire hazard or forest debris—Liability for costs—Recovery. Any person, firm, or corporation negligently responsible for the starting or existence of a fire which spreads on forest land, including permitting the existence of an extreme fire hazard under RCW 76.04.370, as now or hereafter amended, after failure to abate, isolate, or reduce, as required in *this 1971 amendatory act, or for the existence of forest debris subject to RCW 76.04.310 as now or hereafter amended, and which contributes to the spread of said fire, shall be liable for any expense made necessary by such negligence, incurred by the state, a municipality, or a forest protective association, in fighting such fire, together with costs of investigation and litigation including reasonable attorneys' fees and taxable court costs, provided that any such expense was authorized or subsequently approved by the department of natural resources. The department or agency incurring such

expense shall have a lien for the same against any property of said person, firm, or corporation liable as above provided by filing a claim of lien naming said person, firm, or corporation describing the property against which the lien is claimed, specifying the amount expended on the lands on which the fire fighting took place and the period during which the expenses were incurred, and signed by the claimant with post office address. No claim of lien shall be valid unless filed with the county auditor of the county in which the property sought to be charged is located within a period of ninety days after the expenses of the claimant were incurred. The claimant may recover said expenses incurred in a civil action against said person, firm, or corporation liable therefor, and shall have in addition the lien remedy above provided. Said lien may be foreclosed in the same manner as a mechanic's lien is foreclosed under the statutes of the state of Washington. [1977 1st ex.s. c 102 § 4; 1971 ex.s. c 207 § 6; 1923 c 184 § 11, part; RRS § 5806-1.]

***Reviser's note:** "this 1971 amendatory act", see note following RCW 76.04.370.

Construction—1971 ex.s. c 207: See note following RCW 76.04.010.

Mechanics' lien, generally: Chapter 60.04 RCW.

Chapter 76.12 REFORESTATION

Sections

76.12.110	Forest development account.
76.12.150	Repealed.

76.12.110 Forest development account. There is created a forest development account in the state general fund. The state treasurer shall keep an account of all sums deposited therein and expended or withdrawn therefrom. Any sums placed in the account shall be pledged for the purpose of paying interest and principal on the bonds issued by the board, and for the purchase of land for growing timber. Any bonds issued shall constitute a first and prior claim and lien against the account for the payment of principal and interest. No sums for the above purposes shall be withdrawn or paid out of the account except upon approval of the board.

Appropriations may be made by the legislature from the forest development account to the department of natural resources for the purpose of carrying on the activities of the department on state forest lands, lands managed on a sustained yield basis as provided for in RCW 79.68.040, and for reimbursement of expenditures that have been made or may be made from the resource management cost account in the management of state forest lands. [1977 1st ex.s. c 159 § 1; 1959 c 314 § 1; 1951 c 149 § 1; 1933 c 118 § 2; 1923 c 154 § 6; RRS § 5812-6.]

Reviser's note: See note following RCW 76.12.030.

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

[1977 RCW Supp—page 750]

Chapter 76.48 SPECIALIZED FOREST PRODUCTS

Sections

76.48.020	Definitions.
76.48.030	Unlawful acts.
76.48.040	Agencies responsible for enforcement of chapter.
76.48.050	Harvesting permits—Expiration—Specifications.
76.48.060	Harvesting permits—Required—Forms—Filing.
76.48.070	Transporter of specialized forest products must have sales invoice, bill of lading or harvesting permit.
76.48.092	Surrender of copy of harvesting permit to permittee following stipulated use—Penalty.
76.48.094	Cedar processors—Records of purchase, possession or retention of cedar products and salvage.
76.48.096	Cedar processors—Purchase from suppliers not having harvesting permit unlawful.
76.48.098	Cedar processors—Display of valid registration certificate required.
76.48.100	Exemptions.
76.48.110	Violations—Seizure and disposition of products—Disposition of proceeds.
76.48.120	False, fraudulent, stolen or forged harvesting permit, sales invoice, bill of lading, etc.—Penalty.
76.48.130	Penalties.
76.48.140	Disposition of fines.
76.48.901	Severability—1977 1st ex.s. c 147.

76.48.020 Definitions. Unless otherwise required by the context, as used in this chapter:

(1) "Christmas trees" shall mean any evergreen trees or the top thereof, commonly known as Christmas trees, with limbs and branches, with or without roots, including fir, pine, spruce, cedar, and other coniferous species.

(2) "Native ornamental trees and shrubs" shall mean any trees or shrubs which are not nursery grown and which have been removed from the ground with the roots intact.

(3) "Cut or picked evergreen foliage," commonly known as brush, shall mean evergreen boughs, huckleberry, salal, fern, Oregon grape, rhododendron, and other cut or picked evergreen products.

(4) "Cedar products" shall mean cedar shakeboards, shake and shingle bolts, and rounds one to three feet in length.

(5) "Cedar salvage" shall mean cedar chunks, slabs, stumps, and logs being harvested or transported from areas not associated with the concurrent logging of timber stands (a) under a forest practices application approved or notification received by the department of natural resources, or (b) under a contract or permit issued by an agency of the United States government.

(6) "Processed cedar products" shall mean cedar shakes, shingles, fence posts, hop poles, pickets, stakes, or rails; or rounds less than one foot in length.

(7) "Cedar processor" shall mean any person who purchases and/or takes or retains possession of cedar products or cedar salvage following their removal and delivery from the land where harvested.

(8) "Cascara bark" shall mean the bark of a Cascara tree.

(9) "Specialized forest products" shall mean Christmas trees, native ornamental trees and shrubs, cut or picked evergreen foliage, cedar products, cedar salvage, processed cedar products, and Cascara bark.

(10) "Person" shall include the plural and all corporations foreign or domestic, copartnerships, firms, and associations of persons.

(11) "Harvest" shall mean to separate, by cutting, prying, picking, peeling, breaking, pulling, splitting, or otherwise removing, a specialized forest product (a) from its physical connection with or contact with the land or vegetation upon which it was or has been growing, or (b) from the position in which it has been lying upon such land.

(12) "Harvesting permit" shall mean a document in writing signed by a landowner, his duly authorized agent or representative, or by a lessee of land (herein referred to as "permitter"), and validated by the county sheriff, authorizing a designated person (herein referred to as "permittee"), who shall also have signed the permit, to harvest and/or transport, except while on federal lands, a designated specialized forest product from land owned or controlled and specified by the permitter, located in the county where such permit is issued.

(13) "True copy – harvesting permit" shall be a replica of a validated harvesting permit as reproduced by a copy machine capable of effectively reproducing the information contained on the permittee's copy of the harvesting permit. A copy is made true by the permittee or the permittee and permitter affixing an original signature(s) in the space provided on the face of the copy. A true copy will be effective until the expiration date of the harvesting permit unless the permittee or the permittee and permitter specify an earlier date. A permitter can require the original signature of both the permittee and permitter for executing a true copy by so indicating in the space provided on the original copy of the harvesting permit. [1977 1st ex.s. c 147 § 1; 1967 ex.s. c 47 § 3.]

76.48.030 Unlawful acts. It shall be unlawful for any person to harvest specialized forest products as described in RCW 76.48.020, in the quantities specified in RCW 76.48.060, without first obtaining a validated harvesting permit.

It shall also be unlawful to harvest specialized forest products in any lesser quantities than those specified in RCW 76.48.060, as now or hereafter amended, without first obtaining permission from the landowner or lessee or his duly authorized agent or representative. [1977 1st ex.s. c 147 § 2; 1967 ex.s. c 47 § 4.]

76.48.040 Agencies responsible for enforcement of chapter. Agencies charged with the enforcement of this chapter shall include, but not be limited to, the Washington state patrol, county sheriffs and their deputies, municipal police forces, and authorized personnel of the departments of natural resources and game. Primary enforcement responsibility lies in the county sheriff and his deputies. [1977 1st ex.s. c 147 § 3; 1967 ex.s. c 47 § 5.]

76.48.050 Harvesting permits—Expiration—Specifications. Harvesting permits shall consist of properly completed permit forms validated by the sheriff of the county in which the specialized forest products are to

be harvested. All harvesting permits shall expire at the end of the calendar year in which issued, or sooner, at the discretion of the permitter. A properly completed harvesting permit form shall include:

- (1) The date of its execution and expiration;
- (2) The name, address, telephone number, if any, and signature of the permitter;
- (3) The name, address, telephone number, if any, and signature of the permittee;
- (4) The type of specialized forest products to be harvested or transported;
- (5) The approximate amount or volume of specialized forest products to be harvested or transported;
- (6) The legal description of the property from which the specialized forest products are to be harvested or transported, including the name of the county;
- (7) A description by local landmarks of where the harvesting is to occur, or from where the specialized forest products are to be transported;
- (8) Any other condition or limitation which the permitter may specify. [1977 1st ex.s. c 147 § 4; 1967 ex.s. c 47 § 6.]

76.48.060 Harvesting permits—Required—Forms—Filing. A harvesting permit validated by the county sheriff shall be obtained by any person prior to harvesting from any lands, including his own, more than five Christmas trees, more than five ornamental trees or shrubs, more than five pounds of cut or picked evergreen foliage, any cedar products, cedar salvage, processed cedar products, or more than five pounds of Cascara bark. Harvesting permit forms shall be provided by the department of natural resources, and shall be made available through the office of the county sheriff to permittees or permitters in reasonable quantities. A harvesting permit form shall be completed, in triplicate, for each land ownership on which a permittee harvests specialized forest products. A properly completed harvesting permit form shall be mailed or presented for validation to the sheriff of the county in which the specialized forest products are to be harvested. Before a permit form is validated by the sheriff or the sheriff's representative, sufficient personal identification may be required to reasonably identify the person mailing or presenting the permit form and the sheriff may conduct such other investigations as deemed necessary to determine the validity of the information alleged on the form. When the sheriff or sheriff's representative is reasonably satisfied as to the truth of such information, the form shall be validated with the sheriff's validation stamp provided by the department of natural resources. Upon validation, the form shall become the harvesting permit authorizing the harvesting, possession and/or transportation of specialized forest products. One copy of the permit shall be given or mailed to the permittee, one copy shall be given or mailed to the permitter, and the original permit form shall be filed in the office of the county sheriff in whose county the land is situated: *Provided*, That in the event a single land ownership is situated in two or more counties, a harvesting permit shall be completed as to the land situated in each such county.

While engaged in harvesting of specialized forest products, permittees or their agents must have in their possession a true copy of the harvesting permit. [1977 1st ex.s. c 147 § 5; 1967 ex.s. c 47 § 7.]

76.48.070 Transporter of specialized forest products must have sales invoice, bill of lading or harvesting permit. (1) Except as provided in RCW 76.48.100 and except while on federal lands, it shall be unlawful for any person (a) to possess, and/or (b) to transport within the state of Washington, subject to any additional conditions specified on the harvesting permit by the permittor, more than five Christmas trees, more than five native ornamental trees or shrubs, more than five pounds of cut or picked evergreen foliage, any processed cedar products, or more than five pounds of Cascara bark which have been harvested within the state of Washington without having in his possession a written sales invoice, bill of lading, or harvesting permit or a true copy thereof bearing an original signature of the permittee evidencing his title to or authority to have possession of specialized forest products being so possessed or so transported.

(2) Except while on federal lands, it shall be unlawful for any person (a) to possess and/or (b) to transport within the state of Washington any cedar products except processed cedar products, or any cedar salvage without having in his possession a harvesting permit or a true copy thereof evidencing his title to or authority to have possession of the materials being so possessed or so transported. [1977 1st ex.s. c 147 § 6; 1967 ex.s. c 47 § 8.]

76.48.092 Surrender of copy of harvesting permit to permittee following stipulated use—Penalty. Following the stipulated use of a true copy of a harvesting permit, an agent of a permittee shall surrender said copy to the permittee. A wilful failure to surrender the same to the permittee is a gross misdemeanor and punishable as provided by law. [1977 1st ex.s. c 147 § 14.]

76.48.094 Cedar processors—Records of purchase, possession or retention of cedar products and salvage. Cedar processors shall maintain a record of the purchase, taking possession, or retention of cedar products and cedar salvage for at least one year after the date of receipt. The record shall be legible and shall include the date of delivery, the license number of the vehicle delivering the products, and the harvesting permit number. [1977 1st ex.s. c 147 § 11.]

76.48.096 Cedar processors—Purchase from suppliers not having harvesting permit unlawful. It shall be unlawful for any cedar processor to purchase cedar products subsequent to the harvest and prior to the retail sale of such products, unless the supplier of such products displays either a harvesting permit which appears to be valid or what appears to be a true copy of such a permit bearing an original signature of the permittee. [1977 1st ex.s. c 147 § 12.]

76.48.098 Cedar processors—Display of valid registration certificate required. Every cedar processor shall prominently display a valid registration certificate obtained from the department of revenue pursuant to RCW 82.32.030 at each location where such processor receives cedar products.

Permittees shall sell cedar products only to processors displaying registration certificates which appear to be valid. [1977 1st ex.s. c 147 § 13.]

76.48.100 Exemptions. The provisions of this chapter shall not apply to:

(1) Nursery grown products.

(2) Logs, poles, pilings, or other major forest products from which substantially all of the limbs and branches have been removed when harvested (a) under an approved forest practices application or notification, or (b) under a contract or permit issued by an agency of the United States government.

(3) The activities of a landowner, his agent, or representative, or of a lessee of land in carrying on noncommercial property management, maintenance, or improvements on or in connection with the land of such landowner or lessee. [1977 1st ex.s. c 147 § 7; 1967 ex.s. c 47 § 11.]

76.48.110 Violations—Seizure and disposition of products—Disposition of proceeds. Whenever any law enforcement officer has probable cause to believe that a person is harvesting or is in possession of or transporting specialized forest products in violation of the provisions of this chapter, he may, at the time of making an arrest, seize and take possession of any such specialized forest products found. The law enforcement officer shall provide reasonable protection for the specialized forest products involved during the period of litigation or he shall dispose of such specialized forest products at the discretion or order of the court before which the arrested person is ordered to appear.

Upon any disposition of the case by the court, the court shall make a reasonable effort to return the specialized forest products to their rightful owner or pay the proceeds of any sale of specialized forest products less any reasonable expenses of such sale to the rightful owner. If for any reason, the proceeds of such sale cannot be disposed of to the rightful owner, such proceeds, less the reasonable expenses of the sale, shall be paid to the treasurer of the county in which the specialized forest products are sold. The county treasurer shall deposit the same in the county general fund. The return of the specialized forest products or the payment of the proceeds of any sale of products seized to the owner shall not preclude the court from imposing any fine or penalty upon the violator for the violation of the provisions of this chapter. [1977 1st ex.s. c 147 § 8; 1967 ex.s. c 47 § 12.]

76.48.120 False, fraudulent, stolen or forged harvesting permit, sales invoice, bill of lading, etc.—Penalty. It shall be unlawful for any person, upon official inquiry, investigation, or other authorized proceedings, to offer as genuine any paper, document, or other

instrument in writing purporting to be a harvesting permit, or true copy thereof, sales invoice, or bill of lading, or to make any representation of authority to conduct harvesting or transporting of specialized forest products, knowing the same to be in any manner false, fraudulent, forged, or stolen.

Any person who violates this section shall be guilty of forgery, and shall be punished as a class C felony providing for imprisonment in a state correctional institution for a maximum term fixed by the court of not more than five years or by a fine of not more than five thousand dollars, or by both such imprisonment and fine. [1977 1st ex.s. c 147 § 9; 1967 ex.s. c 47 § 13.]

76.48.130 Penalties. Any person who violates any provision of this chapter, other than the provisions contained in RCW 76.48.120, as now or hereafter amended, shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars or by imprisonment in the county jail for not to exceed one year or by both such fine and imprisonment. [1977 1st ex.s. c 147 § 10; 1967 ex.s. c 47 § 14.]

76.48.140 Disposition of fines. All fines collected for violations of any provision of this chapter shall be paid into the general fund of the county treasury of the county in which the violation occurred. [1977 1st ex.s. c 147 § 15.]

76.48.901 Severability—1977 1st ex.s. c 147. If any provision of this 1977 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. [1977 1st ex.s. c 147 § 16.]

such times as may be called by the chairman or by two-thirds majority of the members.

The commission at its first regular meeting after the appointment and qualification of its membership, shall meet at the state capitol and organize by electing one of its members as chairman to serve for a term of two years, and until his successor is elected and qualified, and biennially thereafter the commission shall meet at its office and elect one of its members as chairman, who shall serve for a term of two years and until his successor is elected and qualified.

At such meeting, and at any other meeting after a vacancy in the office of the director of game has occurred, the commission shall elect a director of game by a two-thirds vote of its membership, who shall hold office at the pleasure of the commission. The director shall receive such salary as shall be fixed by the governor in accordance with the provisions of RCW 43.03-.040. The said director shall be ex officio secretary of the state game commission, attend its meetings, keep a record of the business transacted by it, and perform such other duties as the commission may direct.

Each member of the commission shall receive twenty-five dollars for each day actually spent in the performance of official duties and travel expenses in connection therewith in going to, attending, and returning from meetings of the commission in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

The commission shall make a full and complete report of the official business transacted by it each year.

The commission shall maintain its offices in the principal office of the department of game. [1977 c 75 § 89; 1975-'76 2nd ex.s. c 34 § 175; 1961 c 307 § 9; 1955 c 352 § 1; 1955 c 36 § 77.04.060. Prior: 1949 c 205 § 1; 1947 c 275 § 6; Rem. Supp. 1949 § 5992-16.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Title 77

GAME AND GAME FISH

Chapters

77.04	Department of game.
77.12	Powers and duties of commission.
77.16	Prohibited acts and penalties.
77.32	Licenses.

Chapter 77.04

DEPARTMENT OF GAME

Sections

77.04.060	Meetings—Officers—Selection of director— Compensation, travel expenses—Annual report—Office.
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77.04.060 Meetings—Officers—Selection of director—Compensation, travel expenses—Annual report—Office. The state game commission shall hold regular meetings on the first Mondays of January, April, July, and October of each year, and special meetings at

Chapter 77.12

POWERS AND DUTIES OF COMMISSION

Sections

77.12.010	Policy of protection enunciated.
77.12.150	Seasons—Opening and closing—Bag limits.
77.12.201	Counties may elect to relinquish fines and receive payments in lieu of taxes.
77.12.280	Damages caused by game—Maximum payment—Settlement final—Arbitration procedure, advisory awards.

77.12.010 Policy of protection enunciated. The wild animals and wild birds in the state of Washington and the game fish in the waters thereof are the property of the state. The game animals, fur-bearing animals, game birds, nongame birds, harmless or song birds, and game fish shall be preserved, protected, and perpetuated. Such game animals, fur-bearing animals, game birds, nongame birds, harmless or song birds, and game fish shall only be taken at such times or places, by such means, in such manner, or in such quantities as will in the judgment of the commission maximize public recreational

opportunities but not impair the supply thereof: *Provided, however,* That nothing contained herein shall be construed to infringe on the right of a private property owner to control his private property. [1977 c 74 § 1; 1955 c 36 § 77.12.010. Prior: 1947 c 275 § 11; Rem. Supp. 1947 § 5992-21.]

77.12.150 Seasons—Opening and closing—Bag limits. The director, with the approval of the commission, may entirely close, or shorten any season for game animals, fur-bearing animals, game birds, or game fish within the respective game areas, and after a season has been closed or shortened, reopen it, and also fix daily, weekly, or season bag limits on game animals, fur-bearing animals, game birds, or game fish within any game area.

Whenever the director finds that game animals have increased in numbers in any locality of the state to such an extent that they are damaging public or private property, or over-grazing their range, the commission may establish a special hunting season, designate the area and the number and sex of the animals that may be killed by a licensed hunter therein, promulgate necessary rules and regulations, and determine by lot the number of hunters that may hunt within such area and the conditions and requirements incident thereto. The drawing shall take place at a time and place previously determined by the director. Notice of the establishing of such special hunting season and of the drawing shall be given in the manner provided for the publishing of orders opening or closing seasons.

The exercise of power herein granted to close or reopen regular or special seasons, or fix bag limits, shall be by a written order signed by the director promulgated in accordance with chapter 34.04 RCW. [1977 1st ex.s. c 58 § 1; 1975 1st ex.s. c 102 § 1; 1955 c 36 § 77.12.150. Prior: 1949 c 205 § 2; 1947 c 275 § 25; Rem. Supp. 1949 § 5992-35.]

77.12.201 Counties may elect to relinquish fines and receive payments in lieu of taxes. The board of county commissioners of each county may elect, upon written notice given to the director prior to January 1st of any year, to obtain for the following year an amount in lieu of real estate taxes on game lands equal to that which would be paid on similar parcels of real estate situated in the county. Upon such election the total of all fines and bail forfeitures received by the county during the following year under RCW 77.12.170 shall be transmitted to the director and the distribution procedure established by chapter 3.62 RCW shall not apply to the fines and forfeitures. The election shall continue until the game department is notified differently prior to January 1st of any year. [1977 1st ex.s. c 59 § 1; 1965 ex.s. c 97 § 2.]

77.12.280 Damages caused by game—Maximum payment—Settlement final—Arbitration procedure, advisory awards. No payment of any such claim shall be made in excess of one thousand dollars, and in the event any claim is not adjusted, compromised, or settled and paid by the commission for a sum up to such amount,

and within one year from the filing of such claim the same may be filed with the chief fiscal officer of the executive branch. Contents of all such claims shall conform to the tort claim filing requirements found in RCW 4.92.100 as now or hereafter amended. The chief fiscal officer of the executive branch shall recommend to the legislature whether such claims should be approved or rejected. If the legislature approves a claim the same shall be paid from appropriations specifically provided for such purpose by law. The payment of any claim by the commission shall be full and final payment upon such claim.

In the event that any valid claim for damages as provided for in RCW 77.12.270 has been refused or has not been compromised, adjusted, settled and paid by the commission within one hundred and twenty days of the filing of the claim for damages with the commission as provided for in RCW 77.12.290, either the claimant or the commission may serve upon the other personally or by registered mail a notice of an intention to arbitrate; said notice shall contain the name of a person, selected as one arbitrator. Within ten days of receiving such a notice to arbitrate the person upon whom such notice was served shall serve personally or by registered mail upon the other party the name of an arbitrator. The two arbitrators, within seven days of the naming of the second arbitrator shall select a third arbitrator, said arbitrator not to be an employee or commissioner of the state game department. In the event that the two arbitrators as selected by the parties to the dispute cannot agree upon a third arbitrator, either party to the dispute may petition the superior court in the county in which the claim arose, asking said court to select the third arbitrator and upon receiving such a petition the court shall appoint a third arbitrator. Any filing fee or court costs arising from the foregoing petition shall be shared equally by the claimant and the department of game.

The award of the arbitrators shall be advisory only; it shall be written and filed with the department of game at its office in Seattle, King county, Washington, not later than ninety days following the naming of the third arbitrator.

In the event that the parties arbitrate no payment shall be made by the commission until the arbitrators shall have made their advisory award. The payment of any claim by the commission shall be full and final payment of the claim.

In the event that any claim is not adjusted, compromised, settled and paid through arbitration or otherwise within one year from the filing of said claim the same may be filed with the chief fiscal officer of the executive branch. Contents of all such claims shall conform to the tort claim filing requirements found in RCW 4.92.100 as now or hereafter amended. The chief fiscal officer of the executive branch shall recommend to the legislature whether such claims should be approved or rejected. If the legislature approves a claim the same shall be paid from appropriations specifically provided for such purpose by law. [1977 1st ex.s. c 144 § 8; 1957 c 177 § 1; 1955 c 36 § 77.12.280. Prior: 1949 c 238 § 4; Rem. Supp. 1949 § 5992-45b.]

"Chief fiscal officer of the executive branch" defined: RCW 43.41.108.

Chapter 77.16 PROHIBITED ACTS AND PENALTIES

Sections

- 77.16.020 Taking during closed season—Exceeding bag limits—Taking within reserves.
77.16.030 Possession during closed season or in excess of bag limits.
77.16.100 Use of dogs—Field trials for bird dogs.

77.16.020 Taking during closed season—Exceeding bag limits—Taking within reserves. It shall be unlawful for any person to hunt, trap, or fish for any game birds, game animals, fur-bearing animals or game fish during the respective closed seasons therefor. It shall also be unlawful for any person to kill, take, or catch any species of game birds, game animals, fur-bearing animals, or game fish in excess of the number fixed as the bag limit. It shall also be unlawful for any person to hunt or trap for any game birds, game animals, or fur-bearing animals within the boundaries of any game reserve or closed area, and it shall likewise be unlawful for any person to fish for any game fish within any closed waters or within the boundaries of any game fish reserve.

Any person who hunts or traps any elk, moose, antelope, mountain goat, mountain sheep, caribou, bear, cougar, or deer in violation of this section is guilty of a gross misdemeanor and shall be punished by a fine of not less than two hundred fifty dollars and not more than one thousand dollars or by imprisonment in the county jail for not less than thirty days and not more than one year or by both such fine and imprisonment.

Any person who hunts or traps any game bird in violation of this section is guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars and not more than one hundred dollars or by imprisonment in the county jail for not less than ten days and not more than thirty days or by both such fine and imprisonment. [1977 c 44 § 1; 1955 c 36 § 77.16.020. Prior: 1947 c 275 § 41; Rem. Supp. 1947 § 5992–50.]

Revocation of hunting license for violation of RCW 77.16.020 or 77.16.030—Appeal: RCW 77.32.290.

77.16.030 Possession during closed season or in excess of bag limits. It shall be unlawful for any person to have in his possession or under his control any game bird, nongame bird, game animal, fur-bearing animal, or game fish, or part thereof, during the closed season or in excess of the bag limit.

Any person who has in his possession or under his control any elk, moose, antelope, mountain goat, mountain sheep, caribou, bear, cougar, deer, or part thereof in violation of the foregoing portion of this section is guilty of a gross misdemeanor and shall be punished by a fine of not less than two hundred fifty dollars and not more than one thousand dollars or by imprisonment in the

county jail for not less than thirty days and not more than one year or by both such fine and imprisonment.

Any person who has in his possession or under his control any game bird or part thereof in violation of the foregoing portion of this section is guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars and not more than one hundred dollars or by imprisonment in the county jail for not less than ten days and not more than thirty days or by both such fine and imprisonment.

Provided, That any person who has lawfully acquired possession of any game bird, game animal, or game fish, or part thereof, and who desires to retain it for human consumption or ornamental purposes, or desires to sell the skin, hide, horns, head, or plumage thereof, after the close of the season may do so in accordance with the rules and regulations of the commission.

Provided, further, That the owner of any game bird, nongame bird, game animal, fur-bearing animal, or game fish, who has lawfully propagated it or purchased from one who has so propagated it, may possess, ship, sell or otherwise dispose of such bird, animal, or fish, when properly tagged or sealed. [1977 c 44 § 2; 1955 c 36 § 77.16.030. Prior: 1947 c 275 § 42; Rem. Supp. 1947 § 5992–51.]

Revocation of hunting license for violation of RCW 77.16.020 or 77.16.030—Appeal: RCW 77.32.290.

77.16.100 Use of dogs—Field trials for bird dogs. It shall be unlawful for the owner or any person harboring any dog to directly or negligently permit such dog to pursue or injure any deer or elk, or to allow dogs of any kind to accompany any person while such person is hunting deer or elk. Any dog found pursuing any game animal or game bird, or molesting the young of any game animal or game bird or destroying the nest of any game bird during the closed season on game animals or game birds may be declared to be a public nuisance. In addition to any penalty imposed by a court of competent jurisdiction, the court may order the dog destroyed.

During the months of April, May, June and July of each year it shall be unlawful to allow bird dogs, or dogs used for hunting upland game birds, to frequent areas where upland game birds may reasonably be expected to be found.

Competitive field trials for hunting dogs, with or without the shooting or use of privately owned birds, may be held only at such times and places, and under such rules and regulations, as shall be prescribed by the commission. [1977 1st ex.s. c 275 § 1; 1955 c 36 § 77.16.100. Prior: 1947 c 275 § 48; Rem. Supp. 1947 § 5992–58.]

Chapter 77.32 LICENSES

Sections

- 77.32.197 Trapping license—Training program or examination requisite for issuance to initial licensee or juvenile.

77.32.197 Trapping license—Training program or examination requisite for issuance to initial licensee or juvenile. Before granting a trapping license to any person who is purchasing a license for the first time or who is under eighteen years of age the commission shall require that the person either present a certificate showing that the holder has satisfactorily completed a course of instruction in safe, humane, and proper trapping techniques or pass an examination given by the commission to establish that the applicant has the requisite knowledge concerning humane, safe, and proper trapping techniques.

The commission shall establish a program to properly train persons in safe, humane, and proper trapping techniques including the use of trapping devices designed to painlessly capture or instantly kill. For this purpose the commission shall cooperate with national and state animal, humane, firearm safety, and trapping organizations in the development of a curriculum. Upon successful completion of the course every trainee shall be furnished a trapper's training certificate signed by the authorized instructor which shall satisfy the certification requirement of this section for obtaining a trapping license. [1977 c 43 § 1.]

Title 78

MINES, MINERALS, AND PETROLEUM

Chapters

- 78.40 Coal mining code.
78.44 Surface mining.

Chapter 78.40

COAL MINING CODE

Sections

- 78.40.100 ARTICLE III EXAMINING BOARD
through 78.40.121 Repealed.
78.40.130 ARTICLE IV CERTIFICATED MEN
through 78.40.145 Repealed.
ARTICLE III EXAMINING BOARD

78.40.100 through 78.40.121 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

ARTICLE IV CERTIFICATED MEN

78.40.130 through 78.40.145 Repealed. See supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 78.44

SURFACE MINING

Sections

- 78.44.120 Performance bonds and other security.

78.44.120 Performance bonds and other security.

Upon receipt of an operating permit an operator other than a public or governmental agency shall not commence surface mining until the operator has deposited with the department an acceptable performance bond on forms prescribed and furnished by the department. This performance bond shall be a corporate surety bond executed in favor of the department by a corporation authorized to do business in the state of Washington under the provisions of chapter 48.28 RCW and approved by the department. The bond shall be filed and maintained in an amount equal to the estimated cost of completing the reclamation plan for the area to be surface mined during the next twelve-month period and any previously surface mined area for which a permit has been issued and on which the reclamation has not been satisfactorily completed and approved. If an operator increases the area to be surface mined during the twelve month period, the department may increase the amount of the bond to compensate for the increase. The department shall have the authority to determine the amount of the bond that shall be required, and for any reason may refuse any bond not deemed adequate. In no case shall the amount of the bond be less than one hundred dollars or more than two thousand five hundred dollars per acre or fraction thereof.

The bond shall be conditioned upon the faithful performance of the requirements set forth in this chapter and of the rules and regulations adopted pursuant thereto.

In lieu of the surety bond required by this section the operator may file with the department a cash deposit, negotiable securities acceptable to the department, or an assignment of a savings account or of a savings certificate in a Washington bank on an assignment form prescribed by the department.

Liability under the bond shall be maintained as long as reclamation is not completed in compliance with the approved reclamation plan unless released prior thereto as hereinafter provided. Liability under the bond may be released only upon written notification from the department. Notification shall be given upon completion of compliance or acceptance by the department of a substitute bond. In no event shall the liability of the surety exceed the amount of the surety bond required by this section.

A public or governmental agency shall not be required to post a bond under the terms of this chapter.

A blanket performance bond covering two or more surface mining operations may be submitted by an operator in lieu of separate bonds for each separate operation. [1977 c 66 § 1; 1970 ex.s. c 64 § 13.]

Title 79

PUBLIC LANDS

Chapters

- 79.01 Public lands act.

- 79.12 Sales and leases of public lands and materials.
- 79.24 Capitol building lands.
- 79.40 Trespass.
- 79.48 Reclamation of arid lands under carey act.
- 79.64 Funds for managing and administering lands.
- 79.66 Resource management land bank.
- 79.72 Scenic river system.

**Chapter 79.01
PUBLIC LANDS ACT**

Sections

- 79.01.178 Material removed for channel or harbor improvement, or flood control—Use for public purpose.

79.01.178 Material removed for channel or harbor improvement, or flood control—Use for public purpose. When gravel, rock, sand, silt or other material from the state-owned bed and shores of any navigable body of water within the state is removed by any public agency or under public contract for channel or harbor improvement, or flood control, use of such material may be authorized by the department of natural resources for a public purpose on land owned or leased by the state, or any municipality, county, or public corporation: *Provided*, That when no public land site is available for deposit of such material, its deposit on private land with the landowner's permission is authorized and may be designated by the department of natural resources to be for a public purpose. Prior to removal and use, the state agency, municipality, county, or public corporation contemplating or arranging such use shall first obtain written permission from the department of natural resources. No payment of royalty shall be required for such gravel, rock, sand, silt, or other material used for such public purpose, but a charge will be made if such material is subsequently sold or used for some other purpose: *Provided*, That the department may authorize such public agency or private landowner to dispose of such material without charge when necessary to implement disposal of material. No charge shall be required for any use of material obtained under the provisions of this chapter when used solely on an authorized site. Nothing in this section shall repeal or modify the provisions of RCW 75.20.100 or eliminate the necessity of obtaining a permit for such removal from other state agencies as otherwise required by law. [1977 1st ex.s. c 87 § 1; 1970 ex.s. c 54 § 1; 1965 c 47 § 1.]

**Chapter 79.12
SALES AND LEASES OF PUBLIC LANDS AND MATERIALS**

Sections

- 79.12.610 Sale, storage, or other disposition of crops.

79.12.610 Sale, storage, or other disposition of crops. The commissioner shall sell the crops covered by

the warehouse receipt and may comply with the provisions of any federal act or the regulation of any federal agency with relation to the storage or disposition of said grain or peas. [1977 c 20 § 1; 1949 c 203 § 5; Rem. Supp. 1949 § 7895-5.]

**Chapter 79.24
CAPITOL BUILDING LANDS**

Sections

- 79.24.300 Parking facilities authorized—Rental.

79.24.300 Parking facilities authorized—Rental. The state capitol committee may construct parking facilities for the state capitol adequate to provide parking space for automobiles, said parking facilities to be either of a single level, multiple level, or both, and to be either on one site or more than one site and located either on or in close proximity to the capitol grounds, though not necessarily contiguous thereto. The state capitol committee may select such lands as are necessary therefor and acquire them by purchase or condemnation. As an aid to such selection the committee may cause location, topographical, economic, traffic, and other surveys to be conducted, and for this purpose may utilize the services of existing state agencies, may employ personnel, or may contract for the services of any person, firm or corporation. In selecting the location and plans for the construction of the parking facilities the committee shall consider recommendations of the director of general administration.

Space in parking facilities may be rented to the officers and employees of the state on a monthly basis at a rental to be determined by the director of general administration. The state shall not sell gasoline, oil, or any other commodities or perform any services for any vehicles or equipment other than state equipment. [1977 c 75 § 90; 1965 c 129 § 1; 1955 c 293 § 1.]

**Chapter 79.40
TRESPASS**

Sections

- 79.40.050 Repealed.
- 79.40.060 Repealed.

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

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

**Chapter 79.48
RECLAMATION OF ARID LANDS UNDER CAREY ACT**

Sections

- 79.48.010 through 79.48.240 Repealed.

79.48.010 through 79.48.240 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 79.64

FUNDS FOR MANAGING AND ADMINISTERING LANDS

Sections

79.64.030 Expenditures of certain funds in account to be for lands of same trust—Use for other lands—Repayment—Accounting.

79.64.030 Expenditures of certain funds in account to be for lands of same trust—Use for other lands—Repayment—Accounting. Funds in the account derived from the gross proceeds of leases, sales, contracts, licenses, permits, easements, and rights of way issued by the department and affecting school lands, university lands, agricultural college lands, scientific school lands, normal school lands, capitol building lands, or institutional lands shall be expended by the department solely for the purpose of defraying the costs and expenses necessarily incurred in managing and administering public lands of the same trust: *Provided*, That such funds may be used for similar costs and expenses in managing and administering other lands managed by the department: *Provided further*, That such expenditures that have been or may be made on such other lands shall be repaid to the resource management cost account together with interest at the rate provided for in RCW 79.01.216.

An accounting shall be made annually of the accrued expenditures as regards each trust. In the event the accounting determines that expenditures have been made from moneys derived from one category of trust lands for the benefit of another trust or other lands, such expenditure shall be considered a debt against the trust benefited and shall be considered an encumbrance against the property of the trust or trust funds benefited, including property held under chapter 76.12 RCW. The results of the accounting shall be reported to the legislature at the next regular session. [1977 1st ex.s. c 159 § 2; 1961 c 178 § 3.]

Chapter 79.66

RESOURCE MANAGEMENT LAND BANK

Sections

79.66.010 Legislative finding.
79.66.020 Resource management land bank—Created—Purchase of property authorized.
79.66.030 Exchange or sale of property held in resource management land bank.
79.66.040 Management of property held in resource management land bank.
79.66.050 Appropriation of funds from forest development account—Use of income.

79.66.010 Legislative finding. The legislature finds that from time to time it may be desirable for the department of natural resources to sell state lands which have low potential for natural resource management or

low income-generating potential or which, because of geographic location or other factors, are inefficient for the department to manage. However, it is also important to acquire lands to replace those sold so that the publicly owned land base will not be depleted. The purpose of this chapter is to provide a means to facilitate such sales and purchases. [1977 1st ex.s. c 109 § 1.]

79.66.020 Resource management land bank—Created—Purchase of property authorized. The department of natural resources, with the approval of the board of natural resources, is authorized to purchase property at fair market value to be held in a resource management land bank, which is hereby created within the department. Property so purchased shall be property which would be desirable for addition to the public lands of the state because of the natural resource production potential of the property. The total acreage held in the resource management land bank shall not exceed one thousand acres. [1977 1st ex.s. c 109 § 2.]

79.66.030 Exchange or sale of property held in resource management land bank. The department of natural resources, with the approval of the board of natural resources, is authorized to:

(1) Exchange property held in the resource management land bank for any other public lands of equal value administered by the department of natural resources, including any lands held in trust.

(2) Exchange property held in the resource management land bank for property of equal or greater value which is owned publicly or privately, and which has greater natural resource production potential or which could be more easily managed by the department, however, no power of eminent domain is hereby granted to the department; and

(3) Sell property held in the resource management land bank in the manner provided by law for the sale of state lands without any requirement of platting and to use the proceeds to acquire property for the land bank which has greater natural resource production potential or which would be more easily managed by the department. [1977 1st ex.s. c 109 § 3.]

79.66.040 Management of property held in resource management land bank. The department of natural resources may manage the property held in the resource management land bank in the same manner as state granted lands: *Provided*, That such properties or interest in such properties shall not be withdrawn, exchanged, transferred, or sold without first obtaining payment of the fair market value of the property or interest therein or obtaining property of equal value in exchange. [1977 1st ex.s. c 109 § 4.]

79.66.050 Appropriation of funds from forest development account—Use of income. The legislature may authorize appropriation of funds from the forest development account in the general fund for the purposes of this chapter. Income from the sale or management of property in the resource management land bank shall be

returned as a recovered expense to the forest development account and may be used to acquire property under RCW 79.66.020. [1977 1st ex.s. c 109 § 5.]

Chapter 79.72 SCENIC RIVER SYSTEM

Sections

79.72.010	Legislative finding—Purpose.
79.72.020	Definitions—Committee of participating agencies.
79.72.030	Management policies—Development—Inclusion of management plans—Identification and exclusion of unsuitably developed lands—Boundaries of river areas—Hearings—Notice—Meetings—Chairman—Studies—Proposals for system additions.
79.72.040	Administration of management Program—Powers, duties and authority of department.
79.72.050	State agencies and local governments to pursue policies to conserve and enhance included river areas—Shoreline management act—Private lands—Trust lands.
79.72.060	Criteria for inclusion of rivers within system.
79.72.070	Authority of departments of fisheries and game unaffected.
79.72.080	Rivers designated as part of system.
79.72.090	Inclusion of state's scenic rivers in national wild and scenic river system not precluded.
79.72.100	Game fund moneys not to be used.
79.72.110	Funding.
79.72.900	Severability—1977 1st ex.s. c 161.

79.72.010 Legislative finding—Purpose. The legislature hereby finds that many rivers of this state, with their immediate environs, possess outstanding natural, scenic, historic, ecological, and recreational values of present and future benefit to the public. The legislature further finds that the policy of permitting the construction of dams and other impoundment facilities at appropriate sections of the rivers of this state needs to be complemented by a policy that would protect and preserve the natural character of such rivers and fulfill other conservation purposes. It is hereby declared to be the policy of this state that certain selected rivers of the state which, with their immediate environs, possess the aforementioned characteristics, shall be preserved in as natural a condition as practical and that overuse of such rivers, which tends to downgrade their natural condition, shall be discouraged.

The purpose of this chapter is to establish a program for managing publicly owned land on rivers included in the state's scenic river system, to indicate the river segments to be initially included in that system, to prescribe a procedure for adding additional components to the system, and to protect the rights of private property owners. [1977 1st ex.s. c 161 § 1.]

79.72.020 Definitions—Committee of participating agencies. The following terms when used in this chapter shall be defined as follows unless the context clearly requires otherwise:

(1) "Department" means state parks and recreation commission.

(2) "Committee of participating agencies" or "committee" means a committee composed of the executive head, or such executive's designee, of each of the state

departments of ecology, fisheries, game, natural resources, and highways, the state parks and recreation commission, the interagency committee for outdoor recreation, the Washington state association of counties, and the association of Washington cities.

When a specific river or river segment of the state's scenic river system is being considered by the committee, a representative of each participating local government associated with that river or river segment shall serve as a member of the committee.

(3) "Participating local government" means the legislative authority of any city or county, a portion of whose territorial jurisdiction is bounded by or includes a river or river segment of the state's scenic river system.

(4) "River" means a flowing body of water or a section, segment, or portion thereof.

(5) "River area" means a river and the land area in its immediate environs as established by the participating agencies not exceeding a width of one-quarter mile landward from the streamway on either side of the river.

(6) "Scenic easement" means the negotiated right to control the use of land, including the air space above such land, for the purpose of protecting the scenic view throughout the visual corridor.

(7) "Streamway" means that stream-dependent corridor of single or multiple, wet or dry, channel or channels within which the usual seasonal or stormwater run-off peaks are contained, and within which environment the flora, fauna, soil, and topography is dependent on or influenced by the height and velocity of the fluctuating river currents.

(8) "System" means all the rivers and river areas in the state designated by the legislature for inclusion as scenic rivers but does not include tributaries of a designated river unless specifically included by the legislature. The inclusion of a river in the system does not mean that other rivers or tributaries in a drainage basin shall be required to be part of the management program developed for the system unless such rivers and tributaries within the drainage basin are specifically designated for inclusion by the legislature.

(9) "Visual corridor" means that area which can be seen in a normal summer month by a person of normal vision walking either bank of a river included in the system. Such corridor shall not exceed the river area. [1977 1st ex.s. c 161 § 2.]

Reviser's note: "department of highways" redesignated as "department of transportation" by 1977 1st ex.s. c 151. See RCW 47.04.015.

79.72.030 Management policies—Development—Inclusion of management plans—Identification and exclusion of unsuitably developed lands—Boundaries of river areas—Hearings—Notice—Meetings—Chairman—Studies—Proposals for system additions. (1) The department shall develop and adopt management policies for publicly owned or leased land on the rivers designated by the legislature as being a part of the state's scenic river system and within the associated river areas. The department may adopt regulations identifying river classifications which reflect the characteristics common to various segments of scenic rivers and may adopt management policies consistent

with local government's shoreline management master plans appropriate for each such river classification. All such policies shall be subject to review by the committee of participating agencies. Once such a policy has been approved by a majority vote of the committee members, it shall be adopted by the department in accordance with the provisions of chapter 34.04 RCW, as now or hereafter amended. Any variance with such a policy by any public agency shall be authorized only by the approval of the committee of participating agencies by majority vote, and shall be made only to alleviate unusual hardships unique to a given segment of the system.

(2) Any policies developed pursuant to subsection (1) of this section shall include management plans for protecting ecological, economic, recreational, aesthetic, botanical, scenic, geological, hydrological, fish and wildlife, historical, cultural, archaeological, and scientific features of the rivers designated as being in the system. Such policies shall also include management plans to encourage any nonprofit group, organization, association, person, or corporation to develop and adopt programs for the purpose of increasing fish propagation.

(3) The committee of participating agencies shall, by two-thirds majority vote, identify on a river by river basis any publicly owned or leased lands which could be included in a river area of the system but which are developed in a manner unsuitable for land to be managed as part of the system. The department shall exclude lands so identified from the provisions of any management policies implementing the provisions of this chapter.

(4) The committee of participating agencies, by majority vote, shall determine the boundaries which shall define the river area associated with any included river. With respect to the rivers named in RCW 79.72.080, the committee shall make such determination, and those determinations authorized by subsection (3) of this section, within one year of September 21, 1977.

(5) Before making a decision regarding the river area to be included in the system, a variance in policy, or the excluding of land from the provisions of the management policies, the committee shall hold hearings in accord with chapter 34.04 RCW, with at least one public hearing to be held in the general locale of the river under consideration. The department shall cause to be published in a newspaper of general circulation in the area which includes the river or rivers to be considered, a description, including a map showing such river or rivers, of the material to be considered at the public hearing. Such notice shall appear at least twice in the time period between two and four weeks prior to the public hearing.

(6) Meetings of the committee shall be called by the department or by written petition signed by five or more of the committee members. The chairman of the parks and recreation commission or the chairman's designee shall serve as the chairman of any meetings of the committee held to implement the provisions of this chapter.

The committee shall seek and receive comments from the public regarding potential additions to the system,

shall initiate studies, and may, through the department, submit to any session of the legislature proposals for additions to the state scenic river system. These proposals shall be accompanied by a detailed report on the factors which, in the committee's judgment, make an area a worthy addition to the system. [1977 1st ex.s. c 161 § 3.]

79.72.040 Administration of management Program—Powers, duties and authority of department.

(1) The management program for the system shall be administered by the department. The department shall have the responsibility for coordinating the development of the program between affected state agencies and participating local governments, and shall develop and adopt rules and regulations, in accord with chapter 34.04 RCW, for each portion of the system, which shall implement the management policies. In developing rules and regulations for a specific river in the system, the department shall hold at least one public hearing in the general locale of the river under consideration. The department shall cause a brief summary of the proposed rules and regulations to be published twice in a newspaper of general circulation in the area which includes the river to be considered in the period of time between two and four weeks prior to the public hearing. In addition to the foregoing required publication, the department shall also provide notice of the hearings, rules, regulations, and decisions of the department to radio and television stations and major local newspapers in the areas which include the river to be considered.

(2) In addition to any other powers granted to carry out the intent of this chapter, the department is authorized, subject to approval by majority vote of the members of the committee, to: (a) Purchase, within the river area, real property in fee or any lesser right or interest in real property including, but not limited to scenic easements and future development rights, visual corridors, wildlife habitats, unique ecological areas, historical sites, camping and picnic areas, boat launching sites, and/or easements abutting the river for the purpose of preserving or enhancing the river or facilitating the use of the river by the public for fishing, boating and other water related activities; and (b) purchase, outside of a river area, public access to the river area.

The right of eminent domain shall not be utilized in any purchase made pursuant to this section.

(3) The department is further authorized to: (a) Acquire by gift, devise, grant, or dedication the fee, an option to purchase, a right of first refusal or any other lesser right or interest in real property and upon acquisition such real property shall be held and managed within the scenic river system; and (b) accept grants, contributions, or funds from any agency, public or private, or individual for the purposes of this chapter.

(4) The department is hereby vested with the power to obtain injunctions and other appropriate relief against violations of any provisions of this chapter and any rules and regulations adopted under this section or agreements made under the provisions of this chapter. [1977 1st ex.s. c 161 § 4.]

79.72.050 State agencies and local governments to pursue policies to conserve and enhance included river areas—Shoreline management act—Private lands—Trust lands. (1) All state government agencies and local governments are hereby directed to pursue policies with regard to their respective activities, functions, powers, and duties which are designed to conserve and enhance the conditions of rivers which have been included in the system, in accordance with the management policies and the rules and regulations adopted by the department for such rivers. Local agencies are directed to pursue such policies with respect to all lands in the river area owned or leased by such local agencies. Nothing in this chapter shall authorize the modification of a shoreline management plan adopted by a local government and approved by the state pursuant to chapter 90.58 RCW without the approval of the department of ecology and local government. The policies adopted pursuant to this chapter shall be integrated, as fully as possible, with those of the shoreline management act of 1971.

(2) Nothing in this chapter shall grant to the committee of participating agencies or the department the power to restrict the use of private land without either the specific written consent of the owner thereof or the acquisition of rights in real property authorized by RCW 79.72.040.

(3) Nothing in this chapter shall prohibit the department of natural resources from exercising its full responsibilities and obligations for the management of state trust lands. [1977 1st ex.s. c 161 § 5.]

79.72.060 Criteria for inclusion of rivers within system. Rivers of a scenic nature are eligible for inclusion in the system. Ideally, a scenic river:

(1) Is free-flowing without diversions that hinder recreational use;

(2) Has a streamway that is relatively unmodified by riprapping and other stream bank protection;

(3) Has water of sufficient quality and quantity to be deemed worthy of protection;

(4) Has a relatively natural setting and adequate open space;

(5) Requires some coordinated plan of management in order to enhance and preserve the river area; and

(6) Has some lands along its length already in public ownership, or the possibility for purchase or dedication of public access and/or scenic easements. [1977 1st ex.s. c 161 § 6.]

79.72.070 Authority of departments of fisheries and game unaffected. Nothing contained in this chapter shall affect the authority of the department of fisheries and the department of game to construct facilities or make improvements to facilitate the passage or propagation of fish nor shall anything in this chapter be construed to interfere with the powers, duties, and authority of the

department of fisheries or the department of game to regulate, manage, conserve, and provide for the harvest of fish or wildlife within any area designated as being in the state's scenic river system: *Provided*, That no hunting shall be permitted in any state park. [1977 1st ex.s. c 161 § 7.]

79.72.080 Rivers designated as part of system. The following rivers of the state of Washington are hereby designated as being in the scenic river system of the state of Washington:

(1) The Skykomish river from the junction of the north and south forks of the Skykomish river:

(a) Downstream approximately fourteen miles to its junction with the Sultan river;

(b) Upstream approximately twenty miles on the south fork to the junction of the Tye and Foss rivers;

(c) Upstream approximately eleven miles on the north fork to its junction with Bear creek;

(2) The Beckler river from its junction with the south fork of the Skykomish river upstream approximately eight miles to its junction with Rapid river; and

(3) The Tye river from its junction with the south fork of the Skykomish river upstream approximately fourteen miles to Tye Lake. [1977 1st ex.s. c 161 § 8.]

Green river gorge conservation area: RCW 43.51.900-43.51.930.

79.72.090 Inclusion of state's scenic rivers in national wild and scenic river system not precluded. Nothing in this chapter shall preclude a section or segment of the state's scenic rivers included in the system from becoming a part of the national wild and scenic river system. [1977 1st ex.s. c 161 § 9.]

79.72.100 Game fund moneys not to be used. No funds shall be expended from the game fund to carry out the provisions of this chapter. [1977 1st ex.s. c 161 § 10.]

79.72.110 Funding. All funds for the implementation of this chapter as now or hereafter amended shall come from the general fund. [1977 1st ex.s. c 161 § 11.]

79.72.900 Severability—1977 1st ex.s. c 161. If any provision of this act, or its application to any person of legal entity or circumstances, is held invalid, the remainder of the act, or the application of the provision to other persons or legal entities or circumstances, shall not be affected. [1977 1st ex.s. c 161 § 12.]

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**Title 80
PUBLIC UTILITIES**

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**Chapter 80.01
UTILITIES AND TRANSPORTATION
COMMISSION**

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80.01.090 Proceedings public records—Seal—Annual report. All proceedings of the commission and all documents and records in its possession shall be public records, and it shall adopt and use an official seal. The commission shall make and submit to the governor and the legislature an annual report containing a statement of the transactions and proceedings of its office, together with the information gathered by the commission and such other facts, suggestions, and recommendations as the governor may require or the legislature request. [1977 c 75 § 91; 1961 c 14 § 80.01.090. Prior: 1949 c 117 § 5; Rem. Supp. 1949 § 10964-115-5. Formerly RCW 43.53.100.]

**Chapter 80.04
REGULATIONS—GENERAL**

Sections

80.04.010	Definitions.
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80.04.010 Definitions. As used in this title, unless specifically defined otherwise or unless the context indicates otherwise:

"Commission" means the utilities and transportation commission.

"Commissioner" means one of the members of such commission.

"Corporation" includes a corporation, company, association or joint stock association.

"Person" includes an individual, a firm or copartnership.

"Gas plant" includes all real estate, fixtures and personal property, owned, leased, controlled, used or to be

used for or in connection with the transmission, distribution, sale or furnishing of natural gas, or the manufacture, transmission, distribution, sale or furnishing of other type gas, for light, heat or power.

"Gas company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receiver appointed by any court whatsoever, and every city or town, owning, controlling, operating or managing any gas plant within this state.

"Electric plant" includes all real estate, fixtures and personal property operated, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat, or power for hire; and any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power.

"Electrical company" includes any corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever (other than a railroad or street railroad company generating electricity solely for railroad or street railroad purposes or for the use of its tenants and not for sale to others), and every city or town owning, operating or managing any electric plant for hire within this state.

"Telephone company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, operating or managing any telephone line or part of telephone line used in the conduct of the business of affording telephonic communication for hire within this state.

"Telephone line" includes conduits, ducts, poles, wires, cables, cross-arms, receivers, transmitters, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated, owned or controlled by any telephone company to facilitate the business of affording telephonic communication.

"Telegraph company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating or managing any telegraph line or part of telegraph line used in the conduct of the business of affording for hire communication by telegraph within this state.

"Telegraph line" includes conduits, poles, wire, cables, cross-arms, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated or owned by any telegraph company to facilitate the business of affording communication by telegraph.

"Water system" includes all real estate, easements, fixtures, personal property, dams, dikes, head gates, weirs, canals, reservoirs, flumes or other structures or appliances operated, owned, used or to be used for or in

connection with or to facilitate the supply, storage, distribution, sale, furnishing, diversion, carriage, apportionment or measurement of water for power, irrigation, reclamation, manufacturing, municipal, domestic or other beneficial uses for hire.

"Water company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, controlling, operating, or managing any water system for hire within this state: *Provided*, That it shall not include any water system serving less than sixty customers where the average annual gross revenue per customer does not exceed one hundred twenty dollars per year.

"Public service company" includes every gas company, electrical company, telephone company, telegraph company and water company.

The term "service" is used in this title in its broadest and most inclusive sense. [1977 1st ex.s. c 47 § 1; 1963 c 59 § 1; 1961 c 14 § 80.04.010. Prior: 1955 c 316 § 2; prior: 1929 c 223 § 1, part; 1923 c 116 § 1, part; 1911 c 117 § 8, part; RRS § 10344, part.]

Chapter 80.50

ENERGY FACILITIES—SITE LOCATIONS

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80.50.175	Study of potential sites—Fee—Disposition of payments.
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80.50.190	Disposition of receipts from applicants.
80.50.902	Severability—1977 1st ex.s. c 371.

80.50.020 Definitions. (1) "Applicant" means any person who makes application for a site certification pursuant to the provisions of this chapter;

(2) "Application" means any request for approval of a particular site or sites filed in accordance with the procedures established pursuant to this chapter, unless the context otherwise requires;

(3) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal

corporation, government agency, public utility district, or any other entity, public or private, however organized;

(4) "Site" means any proposed or approved location of an energy facility;

(5) "Certification" means a binding agreement between an applicant and the state which shall embody compliance to the siting guidelines, in effect as of the date of certification, which have been adopted pursuant to RCW 80.50.040 as now or hereafter amended as conditions to be met prior to or concurrent with the construction or operation of any energy facility;

(6) "Associated facilities" means storage, transmission, handling, or other related and supporting facilities connecting an energy plant with the existing energy supply, processing, or distribution system, including, but not limited to, communications, controls, mobilizing or maintenance equipment, instrumentation, and other types of ancillary transmission equipment, off-line storage or venting required for efficient operation or safety of the transmission system and overhead, and surface or subsurface lines of physical access for the inspection, maintenance, and safe operations of the transmission facility and new transmission lines constructed to operate at nominal voltages in excess of 200,000 volts to connect a thermal power plant to the northwest power grid: *Provided*, That common carrier railroads or motor vehicles shall not be included;

(7) "Transmission facility" means any of the following together with their associated facilities:

(a) Crude or refined petroleum or liquid petroleum product transmission pipeline of the following dimensions: A pipeline larger than six inches minimum inside diameter between valves for the transmission of these products with a total length of at least fifteen miles;

(b) Natural gas, synthetic fuel gas, or liquified petroleum gas transmission pipeline of the following dimensions: A pipeline larger than fourteen inches minimum inside diameter between valves, for the transmission of these products, with a total length of at least fifteen miles for the purpose of delivering gas to a distribution facility, except an interstate natural gas pipeline regulated by the United States federal power commission;

(8) "Independent consultants" means those persons who have no financial interest in the applicant's proposals and who are retained by the council to evaluate the applicant's proposals, supporting studies, or to conduct additional studies;

(9) "Thermal power plant" means, for the purpose of certification, any electrical generating facility using any fuel, including nuclear materials, for distribution of electricity by electric utilities;

(10) "Energy facility" means an energy plant or transmission facilities: *Provided*, That the following are excluded from the provisions of this chapter:

(a) Facilities for the extraction, conversion, transmission or storage of water, other than water specifically consumed or discharged by energy production or conversion for energy purposes; and

(b) Facilities operated by and for the armed services for military purposes or by other federal authority for the national defense;

(11) "Council" means the energy facility site evaluation council created by RCW 80.50.030;

(12) "Counsel for environment" means an assistant attorney general or a special assistant attorney general who shall represent the public in accordance with RCW 80.50.080;

(13) "Construction" means on-site improvements, excluding exploratory work, which cost in excess of two hundred fifty thousand dollars;

(14) "Energy plant" means the following facilities together with their associated facilities:

(a) Any stationary thermal power plant with generating capacity of two hundred fifty thousand kilowatts or more and floating thermal power plants of fifty thousand kilowatts or more, including associated facilities;

(b) Facilities which will have the capacity to receive liquified natural gas in the equivalent of more than one hundred million standard cubic feet of natural gas per day, which has been transported over marine waters;

(c) Facilities which will have the capacity to receive more than an average of fifty thousand barrels per day of crude or refined petroleum or liquified petroleum gas which has been or will be transported over marine waters, except that the provisions of this chapter shall not apply to storage facilities unless occasioned by such new facility construction;

(d) Any underground reservoir for receipt and storage of natural gas as defined in RCW 80.40.010 capable of delivering an average of more than one hundred million standard cubic feet of natural gas per day; and

(e) Facilities capable of processing more than twenty-five thousand barrels per day of petroleum into refined products;

(15) "Land use plan" means a comprehensive plan or land use element thereof adopted by a unit of local government pursuant to chapters 35.63, 35A.63, or 36.70 RCW;

(16) "Zoning ordinance" means an ordinance of a unit of local government regulating the use of land and adopted pursuant to chapters 35.63, 35A.63, or 36.70 RCW or Article XI of the state Constitution. [1977 1st ex.s. c 371 § 2; 1975-'76 2nd ex.s. c 108 § 30; 1970 ex.s. c 45 § 2.]

Severability—Effective date—1975-'76 2nd ex.s. c 108: See notes following RCW 43.21F.010.

80.50.030 Energy facility site evaluation council—Created—Membership. (1) There is hereby created and established the "energy facility site evaluation council".

(2) The chairman of the council shall be appointed by the governor with the advice and consent of the senate, shall have a vote on matters before the council, shall serve for a term coextensive with the term of the governor and shall be removable for cause. The chairman may designate a member of the council to serve as acting chairman in the event of the chairman's absence. The salary of the chairman shall be determined pursuant to the provisions of RCW 43.03.040. The chairman shall be deemed a "state employee" for the purposes of chapter 42.18 RCW.

(3) The council shall consist of the directors, administrators, or their designees, of the following departments, agencies, commissions and committees or their statutory successors:

- (a) Department of ecology
- (b) Department of fisheries
- (c) Department of game
- (d) Department of parks and recreation
- (e) Department of social and health services
- (f) State energy office
- (g) Department of commerce and economic development
- (h) Utilities and transportation commission
- (i) Office of program planning and fiscal management
- (j) Department of natural resources
- (k) Planning and community affairs agency
- (l) Department of emergency services
- (m) Department of agriculture
- (n) Department of highways.

(4) The appropriate county legislative authority of every county wherein an application for a proposed site is filed shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the county which he represents and such member or designee shall serve until there has been a final acceptance or rejection of such proposed site;

(5) The city legislative authority of every city within whose corporate limits an energy plant is proposed to be located shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the city which he represents and such member or designee shall serve until there has been a final acceptance or rejection of such proposed site.

(6) For any port district wherein an application for a proposed port facility is filed subject to this chapter, the port district shall appoint a member or designee as a nonvoting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the port district which he represents and such member or designee shall serve until there has been a final acceptance or rejection of such proposed site. The provisions of this subsection shall not apply if the port district is the applicant, either singly or in partnership or association with any other person. [1977 1st ex.s. c 371 § 3; 1975-'76 2nd ex.s. c 108 § 31; 1974 ex.s. c 171 § 46; 1970 ex.s. c 45 § 3.]

Reviser's note: (1) "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

(2) "department of highways" redesignated as "department of transportation" by 1977 1st ex.s. c 151. See RCW 47.04.015.

Severability—Effective date—1975-'76 2nd ex.s. c 108: See notes following RCW 43.21F.010.

80.50.040 Energy facility site evaluation council—Powers enumerated. The council shall have the following powers:

(1) To adopt, promulgate, amend, or rescind suitable rules and regulations, pursuant to chapter 34.04 RCW, to carry out the provisions of this chapter, and the policies and practices of the council in connection therewith;

(2) To appoint an executive secretary to serve at the pleasure of the council;

(3) To appoint and prescribe the duties of such clerks, employees and agents as may be necessary to carry out the provisions of this chapter: *Provided*, That such persons shall be employed pursuant to the provisions of chapter 41.06 RCW;

(4) To develop and apply environmental and ecological guidelines in relation to the type, design, location, construction, and operational conditions of certification of energy facilities subject to this chapter;

(5) To establish rules of practice for the conduct of public hearings pursuant to the provisions of the Administrative Procedure Act, as found in chapter 34.04 RCW;

(6) To prescribe the form, content, and necessary supporting documentation for site certification;

(7) To receive applications for energy facility locations and to investigate the sufficiency thereof;

(8) To make and contract, when applicable, for independent studies of sites proposed by the applicant;

(9) To conduct hearings on the proposed location of the energy facilities;

(10) To prepare written reports to the governor which shall include: (a) a statement indicating whether the application is in compliance with the council's guidelines, (b) criteria specific to the site and transmission line routing, (c) a council recommendation as to the disposition of the application, and (d) a draft certification agreement when the council recommends approval of the application;

(11) To prescribe the means for monitoring of the effects arising from the construction and the operation of energy facilities to assure continued compliance with terms of certification: *Provided*, That any on-site inspection required by the council shall be performed by other state agencies pursuant to interagency agreement: *Provided further*, That the council shall retain authority for determining compliance relative to monitoring;

(12) To integrate its site evaluation activity with activities of federal agencies having jurisdiction in such matters to avoid unnecessary duplication; and

(13) To present state concerns and interests to other states, regional organizations, and the federal government on the location, construction, and operation of any energy facility which may affect the environment, health, or safety of the citizens of the state of Washington. [1977 1st ex.s. c 371 § 4; 1975-'76 2nd ex.s. c 108 § 32; 1970 ex.s. c 45 § 4.]

Severability—Effective date—1975-'76 2nd ex.s. c 108: See notes following RCW 43.21F.010.

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

80.50.060 Energy facilities to which chapter applies—Applications for certification—Forms—Information. (1) The provisions of this chapter shall

apply to the construction of energy facilities which includes the new construction of energy facilities and the reconstruction or enlargement of existing energy facilities where the net increase in physical capacity or dimensions resulting from such reconstruction or enlargement meets or exceeds those capacities or dimensions set forth in RCW 80.50.020(7) and *(17), as now or hereafter amended. No construction of such energy facilities may be undertaken, except as otherwise provided in this chapter, after July 15, 1977, without first obtaining certification in the manner provided in this chapter.

(2) The provisions of this chapter shall not apply to normal maintenance and repairs which do not increase the capacity or dimensions beyond those set forth in RCW 80.50.020 (7) and *(17), as now or hereafter amended.

(3) Applications for certification of energy facilities made prior to July 15, 1977 shall continue to be governed by the applicable provisions of law in effect on the day immediately preceding July 15, 1977 with the exceptions of RCW 80.50.190 and 80.50.071 which shall apply to such prior applications and to site certifications prospectively from July 15, 1977.

(4) Applications for certification shall be upon forms prescribed by the council and shall be supported by such information and technical studies as the council may require. [1977 1st ex.s. c 371 § 5; 1975-'76 2nd ex.s. c 108 § 34; 1970 ex.s. c 45 § 6.]

***Reviser's note:** The reference to subsection (17) of RCW 80.50.020 appears to be erroneous. Subsection (14) was apparently intended.

Severability—Effective date—1975-'76 2nd ex.s. c 108: See notes following RCW 43.21F.010.

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

80.50.071 Council to receive applications—Fees or charges for application processing or certification monitoring. (1) The council shall receive all applications for energy facility site certification. The following fees or charges for application processing or certification monitoring shall be paid by the applicant or certificate holder:

(a) A fee of twenty-five thousand dollars for each proposed site, to be applied toward the cost of the independent consultant study authorized in this subsection, shall accompany the application and shall be a condition precedent to any further consideration or action on the application by the council. The council shall commission its own independent consultant study to measure the consequences of the proposed energy facility on the environment for each site application. The council shall direct the consultant to study any matter which it deems essential to an adequate appraisal of the site. The full cost of the study shall be paid by the applicant: *Provided*, That said costs exceeding a total of the twenty-five thousand dollars paid pursuant to subsection (1)(a) of this section shall be payable subject to the applicant giving prior approval to such excess amount.

(b) Each applicant shall, in addition to the costs of the independent consultant provided by subsection (1)(a)

of this section, pay such reasonable costs as are actually and necessarily incurred by the council in processing the application. Such costs shall include, but are not limited to, costs of a hearing examiner, a court reporter, additional staff salaries, wages and employee benefits, goods and services, travel expenses within the state and miscellaneous expenses, as arise directly from processing such application.

Each applicant shall, at the time of application submission, deposit twenty thousand dollars, or such lesser amount as may be specified by council rule, to cover costs provided for by subsection (1)(b) of this section. Reasonable and necessary costs of the council directly attributable to application processing shall be charged against such deposit.

The council shall submit to each applicant a statement of such expenditures actually made during the preceding calendar quarter which shall be in sufficient detail to explain such expenditures. The applicant shall pay the state treasurer the amount of such statement to restore the total amount on deposit to the originally established level: *Provided*, That such applicant may, at the request of the council, increase the amount of funds on deposit to cover anticipated expenses during peak periods of application processing. Any funds remaining unexpended at the conclusion of application processing shall be refunded to the applicant, or at the applicant's option, credited against required deposits of certificate holders.

(c) Each certificate holder shall pay such reasonable costs as are actually and necessarily incurred by the council for inspection and determination of compliance by the certificate holder with the terms of the certification relative to monitoring the effects of construction and operation of the facility.

Each certificate holder, within thirty days of execution of the site certification agreement, shall deposit twenty thousand dollars, or such other amount as may be specified by council rule, to cover costs provided for by subsection (1)(c) of this section. Reasonable and necessary costs of the council directly attributable to inspection and determination of compliance by the certificate holder with the terms of the certification relative to monitoring the effects of construction and operation of the facility shall be charged against such deposit.

The council shall submit to each certificate holder a statement of such expenditures actually made during the preceding calendar quarter which shall be in sufficient detail to explain such expenditures. The certificate holder shall pay the state treasurer the amount of such statement to restore the total amount on deposit to the originally established level: *Provided*, That if the actual, reasonable, and necessary expenditures for inspection and determination of compliance in the preceding calendar quarter have exceeded the amount of funds on deposit, such excess costs shall be paid by the certificate holder.

(2) If an applicant or certificate holder fails to provide the initial deposit, or if subsequently required payments are not received within thirty days following receipt of the statement from the council, the council may (a) in the case of the applicant, suspend processing

of the application until payment is received; or (b) in the case of a certificate holder, suspend the certification.

(3) All payments required of the applicant or certificate holder under this section are to be made to the state treasurer who shall make payments as instructed by the council from the funds submitted. All such funds shall be subject to state auditing procedures. Any unexpended portions thereof shall be returned to the applicant or certificate holder. [1977 1st ex.s. c 371 § 16.]

80.50.075 Expedited processing of applications. (1) Any person required to file an application for certification of an energy facility pursuant to this chapter may apply to the council for an expedited processing of such an application. The application for expedited processing shall be submitted to the council in such form and manner and accompanied by such information as may be prescribed by council rule. The council may grant an applicant expedited processing of an application for certification upon finding that:

- (a) The environmental impact of the proposed energy facility;
- (b) The area potentially affected;
- (c) The cost and magnitude of the proposed energy facility; and
- (d) The degree to which the proposed energy facility represents a change in use of the proposed site are not significant enough to warrant a full review of the application for certification under the provisions of this chapter.

(2) Upon granting an applicant expedited processing of an application for certification, the council shall not be required to:

- (a) Commission an independent study, notwithstanding the provisions of RCW 80.50.071; nor
- (b) Hold a contested case hearing under chapter 34.04 RCW on the application.

(3) The council shall adopt rules governing the expedited processing of an application for certification pursuant to this section. [1977 1st ex.s. c 371 § 17.]

80.50.080 Counsel for the environment. After the council has received a site application, the attorney general shall appoint an assistant attorney general as a counsel for the environment. The counsel for the environment shall represent the public and its interest in protecting the quality of the environment. Costs incurred by the counsel for the environment in the performance of these duties shall be charged to the office of the attorney general, and shall not be a charge against the appropriation to the energy facility site evaluation council. He shall be accorded all the rights, privileges and responsibilities of an attorney representing a party in a formal action. This section shall not be construed to prevent any person from being heard or represented by counsel in accordance with the other provisions of this chapter. [1977 1st ex.s. c 371 § 6; 1970 ex.s. c 45 § 8.]

80.50.100 Recommendations to governor—Approval or rejection of certification—Reconsideration. (1) The council shall report to the governor its recommendations as to the approval or rejection of an

application for certification within twelve months of receipt by the council of such an application, or such later time as is mutually agreed by the council and the applicant. If the council recommends approval of an application for certification, it shall also submit a draft certification agreement with the report. The council shall include conditions in the draft certification agreement to implement the provisions of this chapter, including, but not limited to, conditions to protect state or local governmental or community interests affected by the construction or operation of the energy facility, and conditions designed to recognize the purpose of laws or ordinances, or rules or regulations promulgated thereunder, that are preempted or superseded pursuant to RCW 80.50.110 as now or hereafter amended.

(2) Within sixty days of receipt of the council's report the governor shall take one of the following actions:

(a) Approve the application and execute the draft certification agreement; or

(b) Reject the application; or

(c) Direct the council to reconsider certain aspects of the draft certification agreement.

The council shall reconsider such aspects of the draft certification agreement by reviewing the existing record of the application or, as necessary, by reopening the contested case for the purposes of receiving additional evidence. Such reconsideration shall be conducted expeditiously. The council shall resubmit the draft certification to the governor incorporating any amendments deemed necessary upon reconsideration. Within sixty days of receipt of such draft certification agreement, the governor shall either approve the application and execute the certification agreement or reject the application. The certification agreement shall be binding upon execution by the governor and the applicant.

(3) The rejection of an application for certification by the governor shall be final as to that application but shall not preclude submission of a subsequent application for the same site on the basis of changed conditions or new information. [1977 1st ex.s. c 371 § 8; 1975-'76 2nd ex.s. c 108 § 36; 1970 ex.s. c 45 § 10.]

Severability—Effective date—1975-'76 2nd ex.s. c 108: See notes following RCW 43.21F.010.

80.50.120 Effect of certification. (1) Subject to the conditions set forth therein any certification shall bind the state and each of its departments, agencies, divisions, bureaus, commissions, boards, and political subdivisions, whether a member of the council or not, as to the approval of the site and the construction and operation of the proposed energy facility.

(2) The certification shall authorize the person named therein to construct and operate the proposed energy facility subject only to the conditions set forth in such certification.

(3) The issuance of a certification shall be in lieu of any permit, certificate or similar document required by any department, agency, division, bureau, commission, board, or political subdivision of this state, whether a member of the council or not. [1977 1st ex.s. c 371 § 10; 1975-'76 2nd ex.s. c 108 § 38; 1970 ex.s. c 45 § 12.]

Severability—Effective date—1975-'76 2nd ex.s. c 108: See notes following RCW 43.21F.010.

80.50.140 Review. (1) The approval or rejection of an application for certification by the governor shall be subject to judicial review pursuant to the provisions of chapter 34.04 RCW.

(2) Objections raised by any party in interest concerning procedural error by the council shall be filed with the council within sixty days of the commission of such error, or within thirty days of the first public hearing or meeting of the council at which the general subject matter to which the error is related is discussed, whichever comes later, or such objection shall be deemed waived for purposes of judicial review as provided in this section.

(3) The rules and regulations adopted by the council shall be subject to judicial review pursuant to the provisions of chapter 34.04 RCW. [1977 1st ex.s. c 371 § 11; 1970 ex.s. c 45 § 14.]

80.50.150 Enforcement of compliance. (1) The courts are authorized to grant such restraining orders, and such temporary and permanent injunctive relief as is necessary to secure compliance with this chapter and/or with a site certification agreement issued pursuant to this chapter. The court may assess civil penalties in an amount not less than one thousand dollars per day nor more than twenty-five thousand dollars per day for each day of construction or operation in material violation of this chapter, or in material violation of any site certification agreement issued pursuant to this chapter. The court may charge the expenses of an enforcement action relating to a site certification agreement under this section, including, but not limited to, expenses incurred for legal services and expert testimony, against any person found to be in material violation of the provisions of such certification: *Provided*, That the expenses of a person found not to be in material violation of the provisions of such certification, including, but not limited to, expenses incurred for legal services and expert testimony, may be charged against the person or persons bringing an enforcement action or other action under this section.

(2) Wilful violation of any provision of this chapter shall be a gross misdemeanor.

(3) Civil proceedings to enforce this chapter may be brought by the attorney general or the prosecuting attorney of any county affected by the violation on his own motion or at the request of the council. Criminal proceedings to enforce this chapter may be brought by the prosecuting attorney of any county affected by the violation on his own motion or at the request of the council.

(4) The remedies and penalties in this section, both civil and criminal, shall be cumulative and shall be in addition to any other penalties and remedies available at law, or in equity, to any person. [1977 1st ex.s. c 371 § 12; 1970 ex.s. c 45 § 15.]

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

80.50.175 Study of potential sites—Fee—Disposition of payments. (1) In addition to all other powers conferred on the council under this chapter, the council shall have the powers set forth in this section.

(2) The council, upon request of any potential applicant, is authorized, as provided in this section, to conduct a preliminary study of any potential site prior to receipt of an application for site certification. A fee of ten thousand dollars for each potential site, to be applied toward the cost of any study agreed upon pursuant to subsection (3) of this section, shall accompany the request and shall be a condition precedent to any action on the request by the council.

(3) After receiving a request to study a potential site, the council shall commission its own independent consultant to study matters relative to the potential site. The study shall include, but need not be limited to, the preparation and analysis of environmental impact information for the proposed potential site and any other matter the council and the potential applicant deem essential to an adequate appraisal of the potential site. In conducting the study, the council is authorized to cooperate and work jointly with the county or counties in which the potential site is located, any federal, state, or local governmental agency that might be requested to comment upon the potential site, and any municipal or public corporation having an interest in the matter. The full cost of the study shall be paid by the potential applicant: *Provided*, That such costs exceeding a total of ten thousand dollars shall be payable subject to the potential applicant giving prior approval to such excess amount.

(4) Any study prepared by the council pursuant to subsection (3) of this section may be used in place of the "detailed statement" required by RCW 43.21C.030(2)(c) by any branch of government except the council created pursuant to chapter 80.50 RCW.

(5) All payments required of the potential applicant under this section are to be made to the state treasurer, who in turn shall pay the consultant as instructed by the council. All such funds shall be subject to state auditing procedures. Any unexpended portions thereof shall be returned to the potential applicant.

(6) Nothing in this section shall change the requirements for an application for site certification or the requirement of payment of a fee as provided in RCW 80.50.070, or change the time for disposition of an application for certification as provided in RCW 80.50.100.

(7) Nothing in this section shall be construed as preventing a city or county from requiring any information it deems appropriate to make a decision approving a particular location. [1977 1st ex.s. c 371 § 13; 1975-'76 2nd ex.s. c 108 § 40; 1974 ex.s. c 110 § 2.]

Severability—Effective date—1975-'76 2nd ex.s. c 108: See notes following RCW 43.21F.010.

80.50.180 Proposals and actions by other state agencies and local political subdivisions pertaining to energy facilities exempt from "detailed statement" required by RCW 43.21C.030. Except for actions of the

council under chapter 80.50 RCW, all proposals for legislation and other actions of any branch of government of this state, including state agencies, municipal and public corporations, and counties, to the extent the legislation or other action involved approves, authorizes, permits, or establishes procedures solely for approving, authorizing or permitting, the location, financing or construction of any energy facility subject to certification under chapter 80.50 RCW, shall be exempt from the "detailed statement" required by RCW 43.21C.030. Nothing in this section shall be construed as exempting any action of the council from any provision of chapter 43.21C RCW. [1977 1st ex.s. c 371 § 14.]

80.50.190 Disposition of receipts from applicants. The state general fund shall be credited with all receipts from applicants paid to the state pursuant to chapter 80.50 RCW. Such funds shall be used only by the council for the purposes set forth in chapter 80.50 RCW. All expenditures shall be authorized by law. [1977 1st ex.s. c 371 § 15.]

80.50.902 Severability—1977 1st ex.s. c 371. If any provision of this 1977 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. [1977 1st ex.s. c 371 § 20.]

Title 81

TRANSPORTATION

Chapters

81.24	Regulatory fees.
81.40	Railroads—Employee requirements and regulations.
81.44	Common carriers—Equipment.
81.53	Railroads—Crossings.
81.61	Railroads—Passenger-carrying vehicles for employees.
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Chapter 81.24

REGULATORY FEES

Sections

81.24.010	Companies to file reports of gross revenue and pay fees—General.
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81.24.010 Companies to file reports of gross revenue and pay fees—General. Every company subject to regulation by the commission, except auto transportation companies, steamboat companies, wharfingers or warehousemen, motor freight carriers, and storage warehousemen shall, on or before the first day of April of each year, file with the commission a statement on oath

showing its gross operating revenue from intrastate operations for the preceding calendar year, or portion thereof, and pay to the commission a fee equal to one-tenth of one percent of the first fifty thousand dollars of gross operating revenue, plus two-tenths of one percent of any gross operating revenue in excess of fifty thousand dollars, except railroad companies which shall each pay to the commission a fee equal to one and one-half percent of its intrastate gross operating revenue: *Provided*, That the fee shall in no case be less than one dollar.

The percentage rates of gross operating revenue to be paid in any one year may be decreased by the commission for any class of companies subject to the payment of such fees, by general order entered before March 1st of such year, and for such purpose such companies shall be classified as follows: Railroad, express, sleeping car, and toll bridge companies shall constitute class two. Every other company subject to regulation by the commission, for which regulatory fees are not otherwise fixed by law shall pay fees as herein provided and shall constitute additional classes according to kinds of businesses engaged in. [1977 1st ex.s. c 48 § 1; 1969 ex.s. c 210 § 6; 1963 c 59 § 11; 1961 c 14 § 81.24.010. Prior: 1957 c 185 § 1; 1955 c 125 § 4; prior: 1939 c 123 § 1, part; 1937 c 158 § 1, part; 1929 c 107 § 1, part; 1923 c 107 § 1, part; 1921 c 113 § 1, part; RRS § 10417, part.]

Chapter 81.40

RAILROADS—EMPLOYEE REQUIREMENTS AND REGULATIONS

Sections

81.40.040 Trainmen—Hours of service.

81.40.040 Trainmen—Hours of service. It shall be unlawful for any common carrier by railroad or any of its officers or agents, to require or permit any employee engaged in or connected with the movement of any train to remain on duty more than twelve consecutive hours, except when by casualty occurring after such employee has started on his trip; or, except by accident or unavoidable delay of trains scheduled to make connection with the train on which such employee is serving, he is prevented from reaching his terminal; or, to require or permit any such employee who has been on duty twelve consecutive hours to go on duty without having had at least ten hours off duty; or, to require or permit any such employee who has been on duty twelve hours in the aggregate in any twenty-four hour period to continue on duty without having had at least eight hours off duty within the twenty-four hour period. [1977 c 70 § 1; 1961 c 14 § 81.40.040. Prior: 1907 c 20 § 1; RRS § 7652.]

Chapter 81.44

COMMON CARRIERS—EQUIPMENT

Sections

81.44.020 Correction of unsafe or defective conditions—Failure to have walkways and handrails as unsafe or defective condition, when.

81.44.030 Repealed.

81.44.031 Safety appliances—Locomotives operated on class 1 railroads.

81.44.032 Penalties for violating RCW 81.44.031 or tampering with locomotive speedometer lock or recording tape.

81.44.020 Correction of unsafe or defective conditions—Failure to have walkways and handrails as unsafe or defective condition, when. If upon investigation the commission shall find that the equipment or appliances in connection therewith, or the apparatus, tracks, bridges or other structures of any common carrier are defective, and that the operation thereof is dangerous to the employees of such common carrier or to the public, it shall immediately give notice to the superintendent or other officer of such common carrier of the repairs or reconstruction necessary to place the same in a safe condition, and may also prescribe the rate of speed for trains or cars passing over such dangerous or defective track, bridge or other structure until the repairs or reconstruction required are made, and may also prescribe the time within which the same shall be made. Or if, in its opinion, it is needful or proper, it may forbid the running of trains or cars over any defective track, bridge or structure until the same be repaired and placed in a safe condition. Failure of a railroad bridge or trestle to be equipped with walkways and handrails may be identified as an unsafe or defective condition under this section after hearing had by the commission upon complaint or on its own motion. The commission in making such determination shall balance considerations of employee and public safety with the potential for increased danger to the public resulting from adding such walkways or handrails to railway bridges: *Provided*, That a railroad company shall not be liable for injury to or death of any person occurring on or about any railway bridge or trestle if such person was not a railway employee but was a trespasser or was otherwise not authorized to be in the location where such injury or death occurred.

There shall be no appeal from or action to review any order of the commission made under the provisions of this section if the commission finds that immediate compliance is necessary for the protection of employees or the public. [1977 1st ex.s. c 46 § 1; 1961 c 14 § 81.44.020. Prior: 1911 c 117 § 65; RRS § 10401.]

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

81.44.031 Safety appliances—Locomotives operated on class 1 railroads. Every locomotive operated on every class 1 railroad within the state of Washington shall be equipped with:

(1) Power driven wheel brakes and appliances for operating the train brake system, so equipped that the

engineer on the locomotive drawing such train can control its speed without requiring the brakeman to use hand brakes for that purpose, in operating condition at all times;

(2) Couplers coupling automatically by impact, which can be coupled or uncoupled without the necessity of men going between the locomotive and the locomotive or car to which the same is being coupled or from which it is being uncoupled, and with suitable uncoupling levers;

(3) Proper sill steps and grab irons, and with proper footboards if used in switching service;

(4) Electric headlights of approved design on each end in operating condition at all times;

(5) Except in switching service, a speedometer calibrated in miles per hour, accurate within five miles per hour, and operable at all times: *Provided*, That if a speedometer is determined to be out of calibration or inoperable while the locomotive in enroute, it will be deemed as being in good working order until the locomotive reaches the next terminal where repair facilities are available or where a locomotive with a working speedometer is available for substitution;

(6) Windshields with fully operable windshield wipers capable of removing rain and snow, and adequate operable defrosters on each lead unit of the locomotive consist.

At least one unit of the leading engine—consist on every railroad in this state shall be equipped as of January, 1977, with one or more colored oscillating lights, visible on all sides of the locomotive for a distance of at least two hundred yards. Said light or lights shall be operated whenever the locomotive is in motion or is stopped on a grade crossing, and may be of any color allowed by law, other than the color of the locomotive's headlight. [1977 1st ex.s. c 263 § 1.]

81.44.032 Penalties for violating RCW 81.44.031 or tampering with locomotive speedometer lock or recording tape. Any railroad or railway in this state violating any of the provisions of RCW 81.44.031, shall be fined not less than five hundred dollars nor more than one thousand dollars for each violation; each day such condition exists shall constitute a separate violation. In setting the fine for equipment failure, the location of the locomotive at the time of the violation and access to repair facilities shall be taken into consideration. It shall also be a violation of RCW 81.44.031 and this section subject to the same penalty as provided in this section for any railroad employee, except those charged with the duty of installation, maintenance and repair or removal of speedometers to tamper with, adjust or break the lock or alter or remove the speed recording tape therein. [1977 1st ex.s. c 263 § 2.]

Chapter 81.53

RAILROADS—CROSSINGS

Sections

81.53.400 Traffic control devices during construction, repair, etc. of crossing or overpass—Required.

81.53.410 Traffic control devices during construction, repair, etc. of crossing or overpass—Standards and conditions.

81.53.420 Traffic control devices during construction, repair, etc. of crossing or overpass—Rules.

81.53.400 Traffic control devices during construction, repair, etc. of crossing or overpass—Required. Whenever any railroad company engages in the construction, maintenance, or repair of a crossing or overpass, the company shall install and maintain traffic control devices adequate to protect the public and railroad employees, subject to the requirements of RCW 81.53.410 and 81.53.420. [1977 1st ex.s. c 168 § 1.]

81.53.410 Traffic control devices during construction, repair, etc. of crossing or overpass—Standards and conditions. All traffic control devices used under RCW 81.53.400 shall be subject to the following conditions:

(1) Any traffic control devices shall be used at a repair or construction site only so long as the devices are needed or applicable. Any devices that are no longer needed or applicable shall be removed or inactivated so as to prevent confusion;

(2) All barricades, signs, and similar devices shall be constructed and installed in a workmanlike manner;

(3) Bushes, -weeds, or any other material or object shall not be allowed to obscure any traffic control devices;

(4) All signs, barricades, and other control devices intended for use during hours of darkness shall be adequately illuminated or reflectorized, with precautions taken to protect motorists from glare; and

(5) Flagpersons shall be provided where necessary to adequately protect the public and railroad employees. The flagpersons shall be responsible and competent and possess at least average intelligence, vision, and hearing. They shall be neat in appearance and courteous to the public. [1977 1st ex.s. c 168 § 2.]

81.53.420 Traffic control devices during construction, repair, etc. of crossing or overpass—Rules. The utilities and transportation commission shall adopt rules to implement the provisions of RCW 81.53.400 and 81.53.410 pursuant to chapter 34.04 RCW. The commission shall invite the participation of all interested parties in any hearings or proceedings taken under this section, including any parties who request notice of any proceedings.

Any rules adopted under this section and any devices employed under RCW 81.53.410 shall conform to the national standards established by the current manual, including any future revisions, on the Uniform Traffic Control Devices as approved by the American National Standards Institute as adopted by the federal highway administrator of the United States department of transportation.

Rules adopted by the commission shall specifically prescribe the duties, procedures, and equipment to be used by the flagpersons required by RCW 81.53.410.

RCW 81.53.400 through 81.53.420 and rules adopted thereunder shall be enforced by the commission under

the provisions of chapter 81.04 RCW: *Provided*, That rules adopted by the commission shall recognize that cities with a population in excess of four hundred thousand are responsible for specific public thoroughfares and have the specific responsibility and authority for determining the practices relating to safeguarding the public during construction, repair, and maintenance activities. [1977 1st ex.s. c 168 § 3.]

Chapter 81.61

RAILROADS—PASSENGER-CARRYING VEHICLES FOR EMPLOYEES

Sections

81.61.010	"Passenger-carrying vehicle" defined.
81.61.020	Minimum standards for safe maintenance and operation—Rules and orders, scope.
81.61.030	Rules and orders—Adoption and enforceability—Hearings, notice of.
81.61.040	Inspection authorized in enforcing rules and orders.

81.61.010 "Passenger-carrying vehicle" defined.

Unless the context clearly requires otherwise, the term "passenger-carrying vehicle" as used in this chapter means those buses and trucks owned, operated and maintained by a railroad company which transports railroad employees in other than the cab of such vehicle and designed primarily for operation on roads which may or may not be equipped with retractable flanged wheels for operation on railroad tracks. [1977 1st ex.s. c 2 § 1.]

81.61.020 Minimum standards for safe maintenance and operation—Rules and orders, scope. The utilities and transportation commission shall adopt such rules and orders as are necessary to insure that every passenger-carrying vehicle provided by a railroad company to transport employees in the course of their employment shall be maintained and operated in a safe manner whether it is used on a public or private road or railroad. Such rules and orders shall establish minimum standards for:

(1) The construction and mechanical equipment of the passenger-carrying vehicles, including coupling devices, lighting devices and reflectors, exhaust system, rear vision mirrors, service and parking brakes, steering mechanisms, tires, warning and signaling devices, windshield wipers and heating equipment capable of maintaining a reasonable temperature in passenger areas;

(2) The operation of passenger-carrying vehicles, including driving rules, the loading and carrying of passengers, maximum daily hours of service by drivers, minimum age and skill of drivers, physical condition of drivers, refueling, road warning devices, and the transportation of gasoline and explosives;

(3) The safety of passengers in a passenger-carrying vehicle, including emergency exits, fire extinguishers, first aid kits, facilities for communication between cab and rear compartments, means of ingress and egress, side walls, canopy, and tail gates or other means of retaining passengers within the passenger-carrying vehicle. [1977 1st ex.s. c 2 § 2.]

81.61.030 Rules and orders—Adoption and enforceability—Hearings, notice of. Any rules or orders adopted under this chapter shall be subject to the requirements of, and enforceable by the penalties imposed by chapter 81.04 RCW. Any interested person or group may request notice of, and participate in any hearings or proceedings held pursuant to this chapter. The commission shall conduct a hearing prior to the adoption of any rule or order under this chapter. [1977 1st ex.s. c 2 § 3.]

81.61.040 Inspection authorized in enforcing rules and orders. The commission may, in enforcing rules and orders under this chapter, inspect any passenger-carrying vehicle provided by a railroad company to transport employees in the course of their employment. Upon request, the chief of the state patrol may assist the commission in these inspections. [1977 1st ex.s. c 2 § 4.]

Chapter 81.68

AUTO TRANSPORTATION COMPANIES

Sections

81.68.060	Liability and property damage insurance—Surety bond.
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81.68.060 Liability and property damage insurance—Surety bond. The commission shall in the granting of certificates to operate any auto transportation company, for transporting persons, and baggage, mail and express on the vehicles of auto transportation companies carrying passengers, for compensation require the owner or operator to first procure liability and property damage insurance from a company licensed to make liability insurance in the state of Washington or a surety bond of a company licensed to write surety bonds in the state of Washington on each motor propelled vehicle used or to be used in transporting persons for compensation, in the amount of not less than one hundred thousand dollars for any recovery for personal injury by one person and not less than three hundred thousand dollars for any vehicle having a capacity of sixteen passengers or less and not less than five hundred thousand dollars for any vehicle having a capacity of seventeen passengers or more for all persons receiving personal injury by reason of at least one act of negligence and not less than fifty thousand dollars for damage to property of any person other than the assured. The commission shall fix the amount of the insurance policy or policies or security deposit giving due consideration to the character and amount of traffic, the number of persons affected, and the degree of danger which the proposed operation involves. Such liability and property damage insurance or surety bond shall be maintained in force on each motor propelled vehicle while so used, each policy for liability or property damage insurance or surety bond required herein, shall be filed with the commission and kept in full force and effect and failure so to do shall be cause for the revocation of the certificate. [1977 1st ex.s. c 298 § 1; 1961 c 14 § 81.68.060. Prior: 1921 c 111 § 5; RRS § 6391.]

Chapter 81.70

PASSENGER CHARTER CARRIERS

Sections

81.70.180 Gross operating revenue—Quarterly statement and fee—Exemption when fee paid under RCW 81.24.020.

81.70.180 Gross operating revenue—Quarterly statement and fee—Exemption when fee paid under RCW 81.24.020. Every charter party carrier of passengers shall, between the first and fifteenth days of January, April, July and October of each year, file with the commission a statement showing its gross operating revenue from intrastate operations for the preceding three months, or portion thereof, and pay to the commission a fee of four-fifths of one percent of the amount of gross operating revenue: *Provided*, That the fee paid shall in no case be less than two dollars and fifty cents: *Provided further*, That an "auto transportation company," which is also a charter party carrier of passengers, shall not be required to pay a fee to the commission on gross operating revenue upon which a fee has been paid in accordance with RCW 81.24.020. The percentage rate of gross operating revenue to be paid in any period may be decreased by the commission by general order entered before the fifteenth day of the month preceding the month in which such fees are due. [1977 1st ex.s. c 48 § 2; 1969 c 132 § 14; 1965 c 150 § 19.]

Chapter 81.75

TRANSPORTATION CENTERS

Sections

81.75.010 Authorization to own and operate—Purpose.
81.75.020 Method of acquisition and operation prescribed—Grants—Consolidation of activities.
81.75.030 Services available—Terms of usage.
81.75.900 Severability—1977 1st ex.s. c 217.

81.75.010 Authorization to own and operate—Purpose. It is desirable to a transportation system that convenient and comfortable terminals be established and maintained with the services of all modes of public transportation available to the public at such a center to the extent feasible. It is proper that cities, towns, counties, public transportation benefit area authorities, and municipal corporations of this state be authorized to own and operate transportation centers. [1977 1st ex.s. c 217 § 1.]

81.75.020 Method of acquisition and operation prescribed—Grants—Consolidation of activities. Through its council or other legislative body, any city, town, county, public transportation benefit area authority, or other municipal corporation, authorized to operate public transportation services, may construct or otherwise acquire intermodal transportation centers by donation, lease, or purchase and may operate or let for purposes of leasing space at fair market value for the services set forth in RCW 81.75.030, and to perform other functions permitted by law, the centers or portions

of the centers, for public or private purposes or for compensation or rental upon such conditions as its council or other legislative body shall from time to time prescribe. The city, town, county, public transportation benefit area authority, or municipal corporation, may apply for and receive grants from the federal government for purposes of funding a transportation center and may consolidate a transportation center with other lawful city or town activities. [1977 1st ex.s. c 217 § 2.]

81.75.030 Services available—Terms of usage. To the extent feasible, the services available to the public at any transportation center may include taxi, auto rental, passenger trains, motor buses, travel agents, restrooms, food, telegraph, baggage handling, transfer and delivery of light freight and packages, commercial airlines, air charter, place of temporary rest for citizens and travelers (but not overnight), mail, private auto parking for users of public transportation through the transportation center, local transit, limousine, and any other use necessary to the foregoing.

Any city, town, county, public transportation benefit area authority, or municipal corporation, which elects to operate a transportation center shall operate the center for the general public good. The operator may establish the terms of usage for the various modes of transportation and for others that utilize its facilities, may make reasonable rules concerning public and private use, and may exclude all persons therefrom who refuse to comply with the terms or rules of use. The operator may own, operate, maintain, and manage a transportation center, but shall not engage in providing a transportation or other related service at the center unless otherwise authorized by law. [1977 1st ex.s. c 217 § 3.]

81.75.900 Severability—1977 1st ex.s. c 217. 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. [1977 1st ex.s. c 217 § 5.]

Chapter 81.80

MOTOR FREIGHT CARRIERS

Sections

81.80.300 Identification cab card, identification decal, stamp or number—Mandatory—Fees, collection, disposition—Rules and regulations.

81.80.300 Identification cab card, identification decal, stamp or number—Mandatory—Fees, collection, disposition—Rules and regulations. The commission shall prescribe an identification cab card and identification decal or stamp or number which must be carried within the cab of each motive power vehicle of each motor carrier required to have a permit under this chapter.

The identification cab card and the decal or stamp or number provided for herein may be in such form and contain such information as required by the commission.

It shall be unlawful for any "common carrier" or "contract carrier" to operate any motor vehicle within

this state unless there is carried within the cab of the motive power vehicle, either operating as a solo vehicle or in combination with trailers, the identification cab card and decal or stamp or number required by this section and the payment by such carrier of a total fee of three dollars for each such decal or stamp or number plus the applicable gross weight fee prescribed by RCW 81.80.320: *Provided*, That as to equipment operated between points in this state and points outside the state exclusively in interstate commerce, and as to equipment operated between points in this state and points outside the state in interstate commerce as well as points within this state in intrastate commerce, the commission may adopt rules and regulations specifying an alternative schedule of fees to that specified in RCW 81.80.320 as it may find to be reasonable and specifying the method of evidencing payment of such fees.

The commission may adopt rules and regulations imposing a reduced schedule of fees for short term operations, requiring reports of carriers, and imposing such conditions as the public interest may require with respect to the operation of such vehicles.

The commission shall not be required to collect the excise tax prescribed by RCW 82.44.070 for any fees collected under this chapter.

The decal or stamp or number required herein shall be issued annually under the rules and regulations of the commission, and shall be affixed to the identification cab card required by this section not later than February 1st of each year: *Provided*, That such decal or stamp or number may be issued for the ensuing calendar year on and after the first day of November preceding and may be used from the date of issue until February 1st of the succeeding calendar year for which the same was issued.

It shall be unlawful for the owner of said permit, his agent, servant or employee, or any other person to use or display any identification cab card and decal or stamp or number, the permit number or other insignia of authority from the commission after said permit has expired, been canceled or disposed of, or to operate any vehicle under permit without such identification cab card and decal or stamp or number.

The commission shall collect all fees provided in this section and all such fees shall be deposited in the state treasury to the credit of the public service revolving fund. [1977 1st ex.s. c 63 § 1; 1971 ex.s. c 143 § 4; 1969 ex.s. c 210 § 13; 1967 c 170 § 1; 1961 c 14 § 81.80.300. Prior: 1935 c 184 § 26; RRS § 6382-26.]

Effective date—1971 ex.s. c 143: "Sections 4, 5, 6 and 7 of this 1971 amendatory act shall take effect on October 31, 1971." [1971 ex.s. c 143 § 9.] This applies to RCW 81.80.300, 81.80.320, 81.80.375 and RCW 46.86.140.

Title 82 EXCISE TAXES

Chapters

- 82.01 Department of revenue.
- 82.03 Board of tax appeals.
- 82.04 Business and occupation tax.

- 82.08 Retail sales tax.
- 82.12 Use tax.
- 82.16 Public utility tax.
- 82.24 Tax on cigarettes.
- 82.36 Motor vehicle fuel tax.
- 82.37 Motor vehicle fuel importer tax act.
- 82.38 Special fuel tax act.
- 82.44 Motor vehicle excise.
- 82.50 Mobile homes, travel trailers and campers excise.

Chapter 82.01 DEPARTMENT OF REVENUE

Sections

- 82.01.060 Director—Powers and duties.

82.01.060 Director—Powers and duties. The director of revenue, hereinafter in *this 1967 amendatory act referred to as the director, through the department of revenue, hereinafter in *this 1967 amendatory act referred to as the department, shall:

(1) Assess and collect all taxes and administer all programs relating to taxes which are the responsibility of the tax commission at the time *this 1967 amendatory act takes effect or which the legislature may hereafter make the responsibility of the director or of the department;

(2) Make, adopt and publish such rules and regulations as he may deem necessary or desirable to carry out the powers and duties imposed upon him or the department by the legislature: *Provided*, That rules and regulations adopted by the tax commission prior to the effective date of *this 1967 amendatory act shall remain in force until such time as they may be revised or rescinded by the director;

(3) Provide by general regulations for an adequate system of departmental review of the actions of the department or of its officers and employees in the assessment or collection of taxes;

(4) Maintain a tax research section with sufficient technical, clerical and other employees to conduct constant observation and investigation of the effectiveness and adequacy of the revenue laws of this state and of the sister states in order to assist the governor, the legislature and the director in estimation of revenue, analysis of tax measures, and determination of the administrative feasibility of proposed tax legislation and allied problems;

(5) Recommend to the governor such amendments, changes in, and modifications of the revenue laws as seem proper and requisite to remedy injustice and irregularities in taxation, and to facilitate the assessment and collection of taxes in the most economical manner. [1977 c 75 § 92; 1967 ex.s. c 26 § 3.]

***Reviser's note:** "this 1967 amendatory act", see note following RCW 82.01.050.

Effective date—1967 ex.s. c 26: See note following RCW 82.01.050.

Reports to state, county and city treasurers of banks claiming exemption from sales, use or ad valorem taxes, depository act: RCW 35.38.140, 36.48.180, 43.85.250, 43.85.260.

Chapter 82.03
BOARD OF TAX APPEALS

Sections

82.03.130 Appeals to board—Jurisdiction as to types of appeals.

82.03.130 Appeals to board—Jurisdiction as to types of appeals. The board shall have jurisdiction to decide the following types of appeals:

- (1) Appeals taken pursuant to RCW 82.03.190.
- (2) Appeals from a county board of equalization pursuant to RCW 84.08.130.
- (3) Appeals by an assessor or landowner from an order of the director of revenue made pursuant to RCW 84.08.010 and 84.08.060, the right to such an appeal being hereby established.
- (4) Appeals by an assessor or owner of an intercounty public utility or private car company from determinations by the director of revenue of equalized assessed valuation of property and the apportionment thereof to a county made pursuant to chapter 84.12 RCW and 84.16 RCW, the right to such appeal being hereby established.
- (5) Appeals by an assessor from a determination of any county indicated ratio for such county compiled by the department of revenue pursuant to RCW 84.48.075: *Provided, That*

(a) Said appeal be filed after review of the ratio by the assessor with the department of revenue and upon or before August 11th; and

(b) The hearing before the board shall be expeditiously held in accordance with rules prescribed by the board and shall take precedence over all matters of the same character. [1977 1st ex.s. c 284 § 2; 1967 ex.s. c 26 § 42.]

Purpose—Intent—1977 1st ex.s. c 284: See note following RCW 84.48.075.

Chapter 82.04
BUSINESS AND OCCUPATION TAX

Sections

82.04.2901 Temporary additional tax imposed.
82.04.291 Tax on harvesters of timber—Rates—Definitions—Stumpage values—Revised tables—Appeals—State timber tax account A and state timber reserve account—Surtax—Payment of tax.
82.04.430 Deductions enumerated.

82.04.2901 Temporary additional tax imposed. From and after the first day of June, 1976, until the thirtieth day of June, 1979, there is levied and shall be collected from every person for the act or privilege of engaging in business activities, as a part of the tax imposed by the provisions of RCW 82.04.220 through 82.04.290, inclusive, an additional tax in the amount of six percent of the tax payable under the provisions of RCW 82.04.220 through 82.04.290, inclusive. To facilitate collection of this additional tax, the department of revenue is authorized to adjust the basic rates of persons to which this section applies in such manner as to reflect the amount to the nearest one-thousandth of one percent

of the additional tax hereby imposed. [1977 1st ex.s. c 324 § 1; 1975-'76 2nd ex.s. c 130 § 3.]

Effective date—1975-'76 2nd ex.s. c 130: See note following RCW 82.08.020.

82.04.291 Tax on harvesters of timber—Rates—Definitions—Stumpage values—Revised tables—Appeals—State timber tax account A and state timber reserve account—Surtax—Payment of tax. (1) Upon every person engaging within this state in business as a harvester of timber; as to such persons the amount of tax with respect to such business shall be equal to the stumpage value of timber harvested for sale or for commercial or industrial use multiplied by the appropriate rate as follows:

(a) For timber harvested between October 1, 1972 and September 30, 1973 inclusive, the rate shall be one and three-tenths percent;

(b) For timber harvested between October 1, 1973 and September 30, 1974 inclusive, the rate shall be two and nine-tenths percent and between October 1, 1974 and December 31, 1978, inclusive, six and one-half percent.

(2) For purposes of this section:

(a) "Harvester" means every person who from his own privately owned land or from the privately owned land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services fells, cuts or takes timber for sale or for commercial or industrial use. It does not include persons performing under contract the necessary labor or mechanical services for a harvester.

(b) "Timber" means forest trees, standing or down on privately owned land, and except as provided in RCW 84.33.170 includes Christmas trees.

(c) "Stumpage value of timber" means the appropriate stumpage value shown on tables to be prepared by the department of revenue pursuant to subsection (3) of this section.

(d) Timber shall be considered harvested at the time when in the ordinary course of business the quantity thereof by species is first definitely determined. The amount harvested shall be determined by the Scribner Decimal C Scale or other prevalent measuring practice adjusted to arrive at substantially equivalent measurements, as approved by the department of revenue.

(3) The department of revenue shall designate areas containing timber having similar growing, harvesting and marketing conditions to be used as units for the preparation and application of stumpage values. Each year on or before December 31 for use the following January through June 30, and on or before June 30 for use the following July through December 31, the department shall prepare tables of stumpage values of each species or subclassification of timber within such units, which values shall be the amount that each such species or subclassification would sell for at a voluntary sale made in the ordinary course of business for purposes of immediate harvest. Such stumpage values, expressed in terms of a dollar amount per thousand board feet or other unit measure, shall be determined from (a) gross

proceeds from sales on the stump of similar timber of like quality and character at similar locations, and in similar quantities, or from (b) gross proceeds from sales of logs adjusted to reflect only the portion of such proceeds attributable to value on the stump immediately prior to harvest, or from a combination of (a) and (b), and shall be determined in a manner which makes reasonable and adequate allowances for age, size, quality, costs of removal, accessibility to point of conversion, market conditions and all other relevant factors. Upon application from any person who plans to harvest damaged timber, the stumpage values for which have been materially reduced from the values shown in the applicable tables due to damage resulting from fire, blow down, ice storm, flood or other sudden unforeseen cause, the department shall revise such tables for any area in which such timber is located and shall specify any additional accounting or other requirements to be complied with in reporting and paying such tax. The preliminary area designations and stumpage value tables and any revisions thereof shall be subject to review by the ways and means committees of the house and senate prior to finalization. Tables of stumpage values shall be signed by the director or his designee and authenticated by the official seal of the department. A copy thereof shall be mailed to anyone who has submitted to the department a written request therefor.

(4) On or before the sixtieth day after the date of final adoption of any stumpage value tables, any harvester may appeal to the board of tax appeals for a revision of stumpage values for an area determined pursuant to subsection (3) of this section.

(5) There are hereby created in the state treasury a state timber tax account A and a state timber tax reserve account in the state general fund and any interest earned on the investment of cash balances shall be deposited in these accounts. The revenues from the tax imposed by subsection (1) of this section shall be deposited in state timber tax account A and state timber tax reserve account as follows:

<i>Year of Collection</i>	ACCOUNT A	RESERVE ACCOUNT
1973 through 1982	100%	0%
1983 and thereafter	0%	100%

(6) In addition to the rates specified in subsection (1) of this section, there shall be imposed upon such persons a surtax at a rate of .5% of the stumpage value of timber as specified in such subsection (1) upon timber harvested between October 1, 1972 and September 30, 1974 inclusive. The revenues from such surtax shall be deposited in the state timber tax reserve account. Such surtax shall be reimposed for one year upon timber harvested in any calendar year following any fourth quarter during which transfers from such reserve account pursuant to subsection (3) of RCW 84.33.080 reduce the balance in such account to less than five hundred thousand dollars, but in no event shall such surtax be imposed in any year after 1980.

(7) The tax imposed under this section shall be computed with respect to timber harvested each calendar quarter and shall be due and payable in quarterly installments and remittance therefor shall be made on or

before the last day of the month next succeeding the end of the quarterly period in which the tax accrued. The taxpayer on or before such date shall make out a return, upon such forms and setting forth such information as the department of revenue may require, showing the amount of the tax for which he is liable for the preceding quarterly period, and shall sign and transmit the same to the department of revenue, together with a remittance for such amount.

(8) The taxes imposed by this section shall be in addition to any taxes imposed upon the same persons pursuant to one or more of sections RCW 82.04.230 to 82.04.290, inclusive, and RCW 82.04.440, and none of such sections shall be construed to modify or interact with this section in any way, except RCW 82.04.450 and 82.04.490 shall not apply to the taxes imposed by this section.

(9) Any harvester incurring less than ten dollars tax liability under this section in any calendar quarter shall be excused from the payment of such tax, but may be required by the department of revenue to file a return even though no tax may be due. [1977 1st ex.s. c 347 § 1. Prior: 1975-'76 2nd ex.s. c 123 § 7; 1975-'76 2nd ex.s. c 33 § 1; 1974 ex.s. c 187 § 1; 1972 ex.s. c 148 § 1; 1971 ex.s. c 294 § 7.]

Expiration date—1975-'76 2nd ex.s. c 123: See notes following RCW 43.84.090.

Severability—1974 ex.s. c 187: "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 187 § 20.]

82.04.430 Deductions enumerated. In computing tax there may be deducted from the measure of tax the following items:

(1) Amounts derived by persons, other than those engaging in banking, loan, security, or other financial businesses, from investments or the use of money as such, and also amounts derived as dividends by a parent from its subsidiary corporations;

(2) Amounts derived from bona fide initiation fees, dues, contributions, donations, tuition fees, charges made for operation of privately operated kindergartens, and endowment funds. This paragraph shall not be construed to exempt any person, association, or society from tax liability upon selling tangible personal property or upon providing facilities or services for which a special charge is made to members or others. Dues which are for, or graduated upon, the amount of service rendered by the recipient thereof are not permitted as a deduction hereunder;

(3) The amount of cash discount actually taken by the purchaser. This deduction is not allowed in arriving at the taxable amount under the extractive or manufacturing classifications with respect to articles produced or manufactured, the reported values of which, for the purposes of this tax, have been computed according to the provisions of RCW 82.04.450;

(4) The amount of credit losses actually sustained by taxpayers whose regular books of account are kept upon an accrual basis;

(5) So much of the sale price of motor vehicle fuel as constitutes the amount of tax imposed by the state or the United States government upon the sale thereof;

(6) Amounts derived from business which the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States;

(7) Amounts derived by any person as compensation for the receiving, washing, sorting, and packing of fresh perishable horticultural products and the material and supplies used therein when performed for the person exempted in RCW 82.04.330, either as agent or as independent contractor;

(8) Amounts derived as compensation for services rendered or to be rendered to patients by a hospital, as defined in chapter 70.41 RCW, devoted to the care of human beings with respect to the prevention or treatment of disease, sickness, or suffering, when such hospital is operated by the United States or any of its instrumentalities, or by the state, or any of its political subdivisions;

(9) Amounts derived as compensation for services rendered to patients by a hospital, as defined in chapter 70.41 RCW, which is operated as a nonprofit corporation, nursing homes and homes for unwed mothers operated as religious or charitable organizations, but only if no part of the net earnings received by such an institution inures directly or indirectly, to any person other than the institution entitled to deduction hereunder. In no event shall any such deduction be allowed, unless the hospital building is entitled to exemption from taxation under the property tax laws of this state;

(10) Amounts derived by a political subdivision of the state of Washington from another political subdivision of the state of Washington as compensation for services which are within the purview of RCW 82.04.290;

(11) By those engaged in banking, loan, security or other financial businesses, amounts derived from interest received on investments or loans primarily secured by first mortgages or trust deeds on nontransient residential properties;

(12) By those engaged in banking, loan, security or other financial businesses, amounts derived from interest paid on all obligations of the state of Washington, its political subdivisions, and municipal corporations organized pursuant to the laws thereof;

(13) Amounts derived as interest on loans by a lending institution which is owned exclusively by its borrowers or members and which is engaged solely in the business of making loans for agricultural production;

(14) By persons subject to payment of the tax on manufacturers pursuant to RCW 82.04.240, the value of articles to the extent of manufacturing activities completed outside the United States, if

(a) any additional processing of such articles in this state consists of minor final assembly only, and

(b) in the case of domestic manufacture of such articles, can be and normally is done at the place of initial manufacture, and

(c) the total cost of the minor final assembly does not exceed two percent of the value of the articles, and

(d) the articles are sold and shipped outside the state. [1977 1st ex.s. c 105 § 1; 1971 c 13 § 1; 1970 ex.s. c 101

§ 2; 1970 ex.s. c 65 § 5; 1965 ex.s. c 173 § 11; 1961 c 293 § 5; 1961 c 15 § 82.04.430. Prior: 1945 c 249 § 3; 1935 c 180 § 12; Rem. Supp. 1945 § 8370-12.]

Severability—1970 ex.s. c 101: "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 101 § 5.]

Effective date—1970 ex.s. c 101: "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 March 1, 1970." [1970 ex.s. c 101 § 6.]

Severability—1970 ex.s. c 65: See note following RCW 82.03.050.

Effective date—1970 ex.s. c 65: The effective date of the 1970 amendment to this section was July 1, 1970, see note following RCW 82.03.050.

Chapter 82.08

RETAIL SALES TAX

Sections

82.08.020	Retail sales tax imposed.
82.08.030	Exemptions (as amended by 1977 1st ex.s. c 166).
82.08.030	Exemptions (as amended by 1977 1st ex.s. c 179).
82.08.030	Exemptions (as amended by Initiative Measure No. 345, effective July 1, 1978).

82.08.020 Retail sales tax imposed. There is levied and there shall be collected a tax on each retail sale in this state equal to four and one-half percent of the selling price: *Provided*, That from and after the first day of June, 1976, until the thirtieth day of June, 1979, such tax shall be levied and collected in an amount equal to four and six-tenths percent of the selling price. The tax imposed under this chapter shall apply to successive retail sales of the same property. [1977 1st ex.s. c 324 § 2; 1975-'76 2nd ex.s. c 130 § 1; 1971 ex.s. c 281 § 9; 1969 ex.s. c 262 § 31; 1967 ex.s. c 149 § 19; 1965 ex.s. c 173 § 13; 1961 c 293 § 6; 1961 c 15 § 82.08.020. Prior: 1959 ex.s. c 3 § 5; 1955 ex.s. c 10 § 2; 1949 c 228 § 4; 1943 c 156 § 5; 1941 c 76 § 2; 1939 c 225 § 10; 1935 c 180 § 16; Rem. Supp. 1949 § 8370-16.]

Effective date—1975-'76 2nd ex.s. c 130: "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 immediately: *Provided*, That the provisions of this 1976 amendatory act shall be null and void in the event chapter ... (Substitute Senate Bill No. 2778), Laws of 1975-'76 2nd ex. sess. is approved and becomes law." [1975-'76 2nd ex.s. c 130 § 4.]

Reviser's note: (1) The foregoing annotation applies to the amendments to RCW 82.08.020, 82.12.020 and to the enactment of RCW 82.04.2901 by 1975-'76 2nd ex.s. c 130.

(2) "Substitute Senate Bill No. 2778" referred to above failed to become law.

82.08.030 Exemptions (as amended by 1977 1st ex.s. c 166). The tax hereby levied shall not apply to the following sales:

(1) Casual and isolated sales of property or service, unless made by a person who is engaged in a business activity taxable under chapters 82.04, 82.16 or 82.28 RCW: *Provided*, That the exemption provided by this paragraph shall not be construed as providing any exemption from the tax imposed by chapter 82.12 RCW;

(2) Sales made by persons in the course of business activities with respect to which tax liability is specifically imposed under chapter 82.16 RCW, when the gross proceeds from such sales must be included in the measure of the tax imposed under said chapter;

(3) The distribution and newsstand sale of newspapers;

(4) Sales which the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States;

(5) Sales of motor vehicle fuel used in aircraft by the manufacturer thereof for research, development, and testing purposes and sales of motor vehicle fuel taxable under chapter 82.36 RCW: *Provided*, That the use of any such fuel upon which a refund of the motor vehicle fuel tax has been obtained shall be subject to the tax imposed by chapter 82.12 RCW;

(6) Sales (including transfers of title through decree of appropriation) heretofore or hereafter made of the entire operating property of a publicly or privately owned public utility, or of a complete operating integral section thereof, to the state or a political subdivision thereof for use in conducting any business defined in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), (9), (10) or (11) of RCW 82.16.010;

(7) Auction sales made by or through auctioneers of tangible personal property (including household goods) which have been used in conducting a farm activity, when the seller thereof is a farmer and the sale is held or conducted upon a farm and not otherwise;

(8) Sales to corporations which have been incorporated under any act of the congress of the United States and whose principal purposes are to furnish volunteer aid to members of armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same;

(9) Sales of purebred livestock for breeding purposes where the animals are registered in a nationally recognized breed association; sales of cattle and milk cows used on the farm;

(10) Sales of tangible personal property (other than the type referred to in subdivision (11) hereof) for use by the purchaser in connection with the business of operating as a private or common carrier by air, rail, or water in interstate or foreign commerce: *Provided*, That any actual use of such property in this state shall, at the time of such actual use, be subject to the tax imposed by chapter 82.12 RCW;

(11) Sales of airplanes, locomotives, railroad cars, or watercraft for use in conducting interstate or foreign commerce by transporting therein or therewith property and persons for hire or for use in conducting commercial deep sea fishing operations outside the territorial waters of the state; also sales of tangible personal property which becomes a component part of such airplanes, locomotives, railroad cars, or watercraft, and of motor vehicles or trailers whether owned by or leased with or without drivers and used by the holder of a carrier permit issued by the Interstate Commerce Commission authorizing transportation by motor vehicle across the boundaries of this state, in the course of constructing, repairing, cleaning, altering, or improving the same; also sales of or charges made for labor and services rendered in respect to such constructing, repairing, cleaning, altering, or improving;

(12) Sales of motor vehicles and trailers to be used for the purpose of transporting therein persons or property for hire in interstate or foreign commerce whether such use is by the owner or whether such motor vehicles and trailers are leased to the user with or without drivers: *Provided*, That the purchaser or user must be the holder of a carrier permit issued by the Interstate Commerce Commission and that the vehicles will first move upon the highways of this state from the point of delivery in this state to a point outside of this state under the authority of a one-transit permit issued by the director of motor vehicles pursuant to the provisions of RCW 46.16.100;

(13) Sales of motor vehicles and trailers to nonresidents of this state for use outside of this state, even though delivery be made within this state, but only when (a) the vehicles or trailers will be taken from the point of delivery in this state directly to a point outside this state under the authority of a one-transit permit issued by the director of motor vehicles pursuant to the provisions of RCW 46.16.100, or (b) said motor vehicles and trailers will be registered and licensed immediately under the laws of the state of the purchaser's residence, will not be used in this state more than three months, and will not be required to be registered and licensed under the laws of this state;

(14) Sales to nonresidents of this state for use outside of this state of tangible personal property which becomes a component part of any machinery or other article of personal property belonging to such nonresident, in the course of installing, repairing, cleaning, altering, or improving the same and also sales of or charges made for labor and services rendered in respect to any installing, repairing, cleaning, altering, or improving, of personal property of or for a nonresident, but this subsection (14) shall apply only when the seller agrees to, and does, deliver the property to the purchaser at a point outside this state, or

delivers the property to a common or bona fide private carrier consigned to the purchaser at a point outside this state;

(15) Sales to nonresidents of this state for use outside of this state of watercraft requiring coast guard registration or registration by the state of principal use according to the Federal Boating Act of 1958, even though delivery be made within this state, but only when (a) the watercraft will not be used within this state for more than forty-five days and (b) an appropriate exemption certificate supported by identification ascertaining residence as provided by the department of revenue and signed by the purchaser or his agent establishing the fact that the purchaser is a nonresident and that the watercraft is for use outside of this state, one copy to be filed with the department of revenue with the regular report and a duplicate to be retained by the dealer.

(16) Sales of poultry for use in the production for sale of poultry or poultry products.

(17) Sales to nonresidents of this state for use outside of this state of machinery and implements for use in conducting a farming activity, when such machinery and implements will be transported immediately outside the state. As proof of exemption, an affidavit or certification in such form as the department of revenue shall require shall be made for each such sale, to be retained as a business record of the seller.

(18) Sales for use in states, territories and possessions of the United States which are not contiguous to any other state, but only when, as a necessary incident to the contract of sale, the seller delivers the subject matter of the sale to the purchaser or his designated agent at the usual receiving terminal of the carrier selected to transport the goods, under such circumstances that it is reasonably certain that the goods will be transported directly to a destination in such noncontiguous states, territories and possessions.

(19) Sales to municipal corporations, the state, and all political subdivisions thereof of tangible personal property consumed and/or labor and services rendered in respect to contracts for watershed protection and/or flood prevention. This exemption shall be limited to that portion of the selling price which is reimbursed by the United States government according to the provisions of the Watershed Protection and Flood Prevention Act, Public Laws 566, as amended;

(20) Sales of semen for use in the artificial insemination of livestock;

(21) Sales to nonresidents of this state of tangible personal property for use outside this state when the purchaser has applied for and received from the department of revenue a permit certifying (1) that he is a bona fide resident of a state or possession or Province of Canada other than the state of Washington, (2) that such state, possession, or Province of Canada does not impose a retail sales tax or use tax of three percent or more or, if imposing such a tax, permits Washington residents exemption from otherwise taxable sales by reason of their residence, and (3) that he does agree, when requested, to grant the department of revenue access to such records and other forms of verification at his place of residence to assure that such purchases are not first used substantially in the state of Washington.

Any person claiming exemption from retail sales tax under the provisions of this subsection must display a nonresident permit as herein provided, and any vendor making a sale to a nonresident without collecting the tax must examine such permit, identify the purchaser as the person to whom the nonresident permit was issued, and maintain records which shall show the permit number attributable to each nontaxable sale.

Permits shall be personal and nontransferable, shall be renewable annually, and shall be issued by the department of revenue upon payment of a fee of one dollar. The department may in its discretion designate independent agents for the issuance of permits, according to such standards and qualifications as the department may prescribe. Such agents shall pay over and account to the department for all permit fees collected, after deducting as a collection fee the sum of fifty cents for each permit issued.

Any person making fraudulent statements in order to secure a permit shall be guilty of perjury. Any person making tax exempt purchases by displaying a permit not his own, or a counterfeit permit, with intent to violate the provisions of this subsection shall be guilty of a misdemeanor and, in addition, may be subject to a penalty not to exceed the amount of the tax due on such purchases. Any vendor who makes sales without collecting the tax to a person who does not hold a valid permit, and any vendor who fails to maintain records of permit numbers as provided in this section shall be personally liable for the amount of tax due.

(22) Sales of form lumber to any person engaged in the constructing, repairing, decorating, or improving of new or existing buildings or

other structures under, upon or above real property of or for consumers: *Provided*, That such lumber is used or to be used first by such person for the molding of concrete in a single such contract, project or job and is thereafter incorporated into the product of that same contract, project or job as an ingredient or component thereof.

(23) Sales of, cost of, or charges made for labor and services performed in respect to the mining, sorting, crushing, screening, washing, hauling, and stockpiling of sand, gravel and rock when such sand, gravel, or rock is taken from a pit or quarry which is owned by or leased to a county or a city, and such sand, gravel, or rock is (1) either stockpiled in said pit or quarry for placement or is placed on the street, road, place, or highway of the county or city by the county or city itself, or (2) sold by the county or city to a county, or a city at actual cost for placement on a publicly owned street, road, place, or highway. The exemption provided for in this subsection shall not apply to sales of, cost of, or charges made for such labor and services, if the sand, gravel, or rock is used for other than public road purposes or is sold otherwise than as provided for in this subsection.

(24) Sales of wearing apparel to persons who themselves use such wearing apparel only as a sample for display for the purpose of effecting sales of goods represented by such sample.

(25) Sales of pollen.

(26) Sales to one political subdivision by another political subdivision directly or indirectly arising out of or resulting from the annexation or incorporation of any part of the territory of one political subdivision by another.

(27) The renting or leasing of motor vehicles and trailers to a non-resident of this state for use exclusively in transporting persons or property across the boundaries of this state and in intrastate operations incidental thereto when such motor vehicle or trailer is registered and licensed in a foreign state and for purposes of this exemption the term "nonresident" shall apply to a renter or lessee who has one or more places of business in this state as well as in one or more other states but the exemption for nonresidents shall apply only to those vehicles which are most frequently dispatched, garaged, serviced, maintained and operated from the renter's or lessee's place of business in another state.

(28) Sales of prescription drugs. The term "prescription drugs" shall include any medicine, drug, prescription lens, or other substance other than food for use in the diagnosis, cure, mitigation, treatment, or prevention of disease or other ailment in humans ordered by (a) the written prescription to a pharmacist by a practitioner authorized by law of this state or laws of another jurisdiction to issue prescriptions, or (b) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by a duly licensed pharmacist, or (c) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist, or (d) physicians or optometrists by way of written directions and specifications for the preparation, grinding, and fabrication of lenses intended to aid or correct visual defects or anomalies of humans.

(29) Sales of returnable containers for beverages and foods, including but not limited to soft drinks, milk, beer, and mixers.

(30) Sales of insulin, prosthetic devices, and medically prescribed oxygen.

(31) Sales of ferry vessels to the state of Washington for use in transporting pedestrians, vehicles, and goods within or outside the territorial waters of the state; also sales of tangible personal property which becomes a component part of such ferry vessels; also sales of or charges made for labor and services rendered in respect to constructing or improving such ferry vessels. [1977 1st ex.s. c 166 § 6; 1975 1st ex.s. c 291 § 10; 1974 ex.s. c 185 § 1; 1971 ex.s. c 11 § 1; 1970 ex.s. c 65 § 6; 1967 ex.s. c 149 § 20; 1967 c 87 § 1; 1965 ex.s. c 173 § 14; 1963 ex.s. c 28 § 3; 1961 c 293 § 7; 1961 c 15 § 82.08.030. Prior: 1959 ex.s. c 3 § 6; 1955 c 137 § 1; 1951 1st ex.s. c 9 § 2; 1949 c 228 § 5; 1945 c 249 § 5; 1943 c 156 § 7; 1939 c 225 § 9; 1935 c 180 § 19; Rem. Supp. 1949 § 8370-19.]

Severability—1977 1st ex.s. c 166: See notes following RCW 47.60.650.

82.08.030 Exemptions (as amended by 1977 1st ex.s. c 179). The tax hereby levied shall not apply to the following sales:

(1) Casual and isolated sales of property or service, unless made by a person who is engaged in a business activity taxable under chapters 82.04, 82.16 or 82.28 RCW: *Provided*, That the exemption provided by this paragraph shall not be construed as providing any exemption from the tax imposed by chapter 82.12 RCW;

(2) Sales made by persons in the course of business activities with respect to which tax liability is specifically imposed under chapter 82.16 RCW, when the gross proceeds from such sales must be included in the measure of the tax imposed under said chapter;

(3) The distribution and newsstand sale of newspapers;

(4) Sales which the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States;

(5) Sales of motor vehicle fuel used in aircraft by the manufacturer thereof for research, development, and testing purposes and sales of motor vehicle fuel taxable under chapter 82.36 RCW: *Provided*, That the use of any such fuel upon which a refund of the motor vehicle fuel tax has been obtained shall be subject to the tax imposed by chapter 82.12 RCW;

(6) Sales (including transfers of title through decree of appropriation) heretofore or hereafter made of the entire operating property of a publicly or privately owned public utility, or of a complete operating integral section thereof, to the state or a political subdivision thereof for use in conducting any business defined in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), (9), (10) or (11) of RCW 82.16.010;

(7) Auction sales made by or through auctioneers of tangible personal property (including household goods) which have been used in conducting a farm activity, when the seller thereof is a farmer and the sale is held or conducted upon a farm and not otherwise;

(8) Sales to corporations which have been incorporated under any act of the congress of the United States and whose principal purposes are to furnish volunteer aid to members of armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same;

(9) Sales of purebred livestock for breeding purposes where the animals are registered in a nationally recognized breed association; sales of cattle and milk cows used on the farm;

(10) Sales of tangible personal property (other than the type referred to in subdivision (11) hereof) for use by the purchaser in connection with the business of operating as a private or common carrier by air, rail, or water in interstate or foreign commerce: *Provided*, That any actual use of such property in this state shall, at the time of such actual use, be subject to the tax imposed by chapter 82.12 RCW;

(11) Sales of airplanes, locomotives, railroad cars, or watercraft for use in conducting interstate or foreign commerce by transporting therein or therewith property and persons for hire or for use in conducting commercial deep sea fishing operations outside the territorial waters of the state; also sales of tangible personal property which becomes a component part of such airplanes, locomotives, railroad cars, or watercraft, and of motor vehicles or trailers whether owned by or leased with or without drivers and used by the holder of a carrier permit issued by the Interstate Commerce Commission authorizing transportation by motor vehicle across the boundaries of this state, in the course of constructing, repairing, cleaning, altering, or improving the same; also sales of or charges made for labor and services rendered in respect to such constructing, repairing, cleaning, altering, or improving;

(12) Sales of motor vehicles and trailers to be used for the purpose of transporting therein persons or property for hire in interstate or foreign commerce whether such use is by the owner or whether such motor vehicles and trailers are leased to the user with or without drivers: *Provided*, That the purchaser or user must be the holder of a carrier permit issued by the Interstate Commerce Commission and that the vehicles will first move upon the highways of this state from the point of delivery in this state to a point outside of this state under the authority of a one-transit permit issued by the director of motor vehicles pursuant to the provisions of RCW 46.16.100;

(13) Sales of motor vehicles and trailers to nonresidents of this state for use outside of this state, even though delivery be made within this state, but only when (a) the vehicles or trailers will be taken from the point of delivery in this state directly to a point outside this state under the authority of a one-transit permit issued by the director of motor vehicles pursuant to the provisions of RCW 46.16.100, or (b) said motor vehicles and trailers will be registered and licensed immediately under the laws of the state of the purchaser's residence, will not be used in this state more than three months, and will not be required to be registered and licensed under the laws of this state;

(14) Sales to nonresidents of this state for use outside of this state of tangible personal property which becomes a component part of any machinery or other article of personal property belonging to such non-resident, in the course of installing, repairing, cleaning, altering, or

improving the same and also sales of or charges made for labor and services rendered in respect to any installing, repairing, cleaning, altering, or improving, of personal property of or for a nonresident, but this subsection (14) shall apply only when the seller agrees to, and does, deliver the property to the purchaser at a point outside this state, or delivers the property to a common or bona fide private carrier consigned to the purchaser at a point outside this state;

(15) Sales to nonresidents of this state for use outside of this state of watercraft requiring coast guard registration or registration by the state of principal use according to the Federal Boating Act of 1958, even though delivery be made within this state, but only when (a) the watercraft will not be used within this state for more than forty-five days and (b) an appropriate exemption certificate supported by identification ascertaining residence as provided by the department of revenue and signed by the purchaser or his agent establishing the fact that the purchaser is a nonresident and that the watercraft is for use outside of this state, one copy to be filed with the department of revenue with the regular report and a duplicate to be retained by the dealer.

(16) Sales of poultry for use in the production for sale of poultry or poultry products.

(17) Sales to nonresidents of this state for use outside of this state of machinery and implements for use in conducting a farming activity, when such machinery and implements will be transported immediately outside the state. As proof of exemption, an affidavit or certification in such form as the department of revenue shall require shall be made for each such sale, to be retained as a business record of the seller.

(18) Sales for use in states, territories and possessions of the United States which are not contiguous to any other state, but only when, as a necessary incident to the contract of sale, the seller delivers the subject matter of the sale to the purchaser or his designated agent at the usual receiving terminal of the carrier selected to transport the goods, under such circumstances that it is reasonably certain that the goods will be transported directly to a destination in such noncontiguous states, territories and possessions.

(19) Sales to municipal corporations, the state, and all political subdivisions thereof of tangible personal property consumed and/or of labor and services rendered in respect to contracts for watershed protection and/or flood prevention. This exemption shall be limited to that portion of the selling price which is reimbursed by the United States government according to the provisions of the Watershed Protection and Flood Prevention Act, Public Laws 566, as amended;

(20) Sales of semen for use in the artificial insemination of livestock;

(21) Sales to nonresidents of this state of tangible personal property for use outside this state when the purchaser has applied for and received from the department of revenue a permit certifying (1) that he is a bona fide resident of a state or possession or Province of Canada other than the state of Washington, (2) that such state, possession, or Province of Canada does not impose a retail sales tax or use tax of three percent or more or, if imposing such a tax, permits Washington residents exemption from otherwise taxable sales by reason of their residence, and (3) that he does agree, when requested, to grant the department of revenue access to such records and other forms of verification at his place of residence to assure that such purchases are not first used substantially in the state of Washington.

Any person claiming exemption from retail sales tax under the provisions of this subsection must display a nonresident permit as herein provided, and any vendor making a sale to a nonresident without collecting the tax must examine such permit, identify the purchaser as the person to whom the nonresident permit was issued, and maintain records which shall show the permit number attributable to each non-taxable sale.

Permits shall be personal and nontransferable, shall be renewable annually, and shall be issued by the department of revenue upon payment of a fee of one dollar. The department may in its discretion designate independent agents for the issuance of permits, according to such standards and qualifications as the department may prescribe. Such agents shall pay over and account to the department for all permit fees collected, after deducting as a collection fee the sum of fifty cents for each permit issued.

Any person making fraudulent statements in order to secure a permit shall be guilty of perjury. Any person making tax exempt purchases by displaying a permit not his own, or a counterfeit permit, with intent to violate the provisions of this subsection shall be guilty of a misdemeanor and, in addition, may be subject to a penalty not to exceed the amount of the tax due on such purchases. Any vendor who makes sales without collecting the tax to a person who does not hold a valid permit, and any vendor who fails to maintain records of permit

numbers as provided in this section shall be personally liable for the amount of tax due.

(22) Sales of form lumber to any person engaged in the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon or above real property of or for consumers: *Provided*, That such lumber is used or to be used first by such person for the molding of concrete in a single such contract, project or job and is thereafter incorporated into the product of that same contract, project or job as an ingredient or component thereof.

(23) Sales of, cost of, or charges made for labor and services performed in respect to the mining, sorting, crushing, screening, washing, hauling, and stockpiling of sand, gravel and rock when such sand, gravel, or rock is taken from a pit or quarry which is owned by or leased to a county or a city, and such sand, gravel, or rock is (1) either stockpiled in said pit or quarry for placement or is placed on the street, road, place, or highway of the county or city by the county or city itself, or (2) sold by the county or city to a county, or a city at actual cost for placement on a publicly owned street, road, place, or highway. The exemption provided for in this subsection shall not apply to sales of, cost of, or charges made for such labor and services, if the sand, gravel, or rock is used for other than public road purposes or is sold otherwise than as provided for in this subsection.

(24) Sales of wearing apparel to persons who themselves use such wearing apparel only as a sample for display for the purpose of effecting sales of goods represented by such sample.

(25) Sales of pollen.

(26) Sales to one political subdivision by another political subdivision directly or indirectly arising out of or resulting from the annexation or incorporation of any part of the territory of one political subdivision by another.

(27) The renting or leasing of motor vehicles and trailers to a nonresident of this state for use exclusively in transporting persons or property across the boundaries of this state and in intrastate operations incidental thereto when such motor vehicle or trailer is registered and licensed in a foreign state and for purposes of this exemption the term "nonresident" shall apply to a renter or lessee who has one or more places of business in this state as well as in one or more other states but the exemption for nonresidents shall apply only to those vehicles which are most frequently dispatched, garaged, serviced, maintained and operated from the renter's or lessee's place of business in another state.

(28) Sales of prescription drugs, including sales to the state or a political subdivision or municipal corporation thereof of drugs to be dispensed to patients by prescription without charge. The term "prescription drugs" shall include any medicine, drug, prescription lens, or other substance other than food for use in the diagnosis, cure, mitigation, treatment, or prevention of disease or other ailment in humans ordered by (a) the written prescription to a pharmacist by a practitioner authorized by law of this state or laws of another jurisdiction to issue prescriptions, or (b) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by a duly licensed pharmacist, or (c) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist, or (d) physicians or optometrists by way of written directions and specifications for the preparation, grinding, and fabrication of lenses intended to aid or correct visual defects or anomalies of humans.

(29) Sales of returnable containers for beverages and foods, including but not limited to soft drinks, milk, beer, and mixers.

(30) Sales of insulin, prosthetic devices, and medically prescribed oxygen. [1977 1st ex.s. c 179 § 1; 1975 1st ex.s. c 291 § 10; 1974 ex.s. c 185 § 1; 1971 ex.s. c 11 § 1; 1970 ex.s. c 65 § 6; 1967 ex.s. c 149 § 20; 1967 c 87 § 1; 1965 ex.s. c 173 § 14; 1963 ex.s. c 28 § 3; 1961 c 293 § 7; 1961 c 15 § 82.08.030. Prior: 1959 ex.s. c 3 § 6; 1955 c 137 § 1; 1951 1st ex.s. c 9 § 2; 1949 c 228 § 5; 1945 c 249 § 5; 1943 c 156 § 7; 1939 c 225 § 9; 1935 c 180 § 19; Rem. Supp. 1949 § 8370-19.]

Effective date—1977 1st ex.s. c 179: "This 1977 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, 1977." [1977 1st ex.s. c 179 § 3.]

82.08.030 Exemptions (as amended by Initiative Measure No. 345, effective July 1, 1978). The tax hereby levied shall not apply to the following sales:

(1) Casual and isolated sales of property or service, unless made by a person who is engaged in a business activity taxable under chapters 82.04, 82.16 or 82.28 RCW: *Provided*, That the exemption provided by this paragraph shall not be construed as providing any exemption from the tax imposed by chapter 82.12 RCW;

(2) Sales made by persons in the course of business activities with respect to which tax liability is specifically imposed under chapter 82.16 RCW, when the gross proceeds from such sales must be included in the measure of the tax imposed under said chapter;

(3) The distribution and newsstand sale of newspapers;

(4) Sales which the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States;

(5) Sales of motor vehicle fuel used in aircraft by the manufacturer thereof for research, development, and testing purposes and sales of motor vehicle fuel taxable under chapter 82.36 RCW: *Provided*, That the use of any such fuel upon which a refund of the motor vehicle fuel tax has been obtained shall be subject to the tax imposed by chapter 82.12 RCW;

(6) Sales (including transfers of title through decree of appropriation) heretofore or hereafter made of the entire operating property of a publicly or privately owned public utility, or of a complete operating integral section thereof, to the state or a political subdivision thereof for use in conducting any business defined in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), (9), (10) or (11) of RCW 82.16.010;

(7) Auction sales made by or through auctioneers of tangible personal property (including household goods) which have been used in conducting a farm activity, when the seller thereof is a farmer and the sale is held or conducted upon a farm and not otherwise;

(8) Sales to corporations which have been incorporated under any act of the congress of the United States and whose principal purposes are to furnish volunteer aid to members of armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same;

(9) Sales of purebred livestock for breeding purposes where the animals are registered in a nationally recognized breed association; sales of cattle and milk cows used on the farm;

(10) Sales of tangible personal property (other than the type referred to in subdivision (11) hereof) for use by the purchaser in connection with the business of operating as a private or common carrier by air, rail, or water in interstate or foreign commerce: *Provided*, That any actual use of such property in this state shall, at the time of such actual use, be subject to the tax imposed by chapter 82.12 RCW;

(11) Sales of airplanes, locomotives, railroad cars, or watercraft for use in conducting interstate or foreign commerce by transporting therein or therewith property and persons for hire or for use in conducting commercial deep sea fishing operations outside the territorial waters of the state; also sales of tangible personal property which becomes a component part of such airplanes, locomotives, railroad cars, or watercraft, and of motor vehicles or trailers whether owned by or leased with or without drivers and used by the holder of a carrier permit issued by the Interstate Commerce Commission authorizing transportation by motor vehicle across the boundaries of this state, in the course of constructing, repairing, cleaning, altering, or improving the same; also sales of or charges made for labor and services rendered in respect to such constructing, repairing, cleaning, altering, or improving;

(12) Sales of motor vehicles and trailers to be used for the purpose of transporting therein persons or property for hire in interstate or foreign commerce whether such use is by the owner or whether such motor vehicles and trailers are leased to the user with or without drivers: *Provided*, That the purchaser or user must be the holder of a carrier permit issued by the Interstate Commerce Commission and that the vehicles will first move upon the highways of this state from the point of delivery in this state to a point outside of this state under the authority of a one-transit permit issued by the director of motor vehicles pursuant to the provisions of RCW 46.16.100;

(13) Sales of motor vehicles and trailers to nonresidents of this state for use outside of this state, even though delivery be made within this state, but only when (a) the vehicles or trailers will be taken from the point of delivery in this state directly to a point outside this state under the authority of a one-transit permit issued by the director of motor vehicles pursuant to the provisions of RCW 46.16.100, or (b) said motor vehicles and trailers will be registered and licensed immediately under the laws of the state of the purchaser's residence, will not be

used in this state more than three months, and will not be required to be registered and licensed under the laws of this state;

(14) Sales to nonresidents of this state for use outside of this state of tangible personal property which becomes a component part of any machinery or other article of personal property belonging to such nonresident, in the course of installing, repairing, cleaning, altering, or improving the same and also sales of or charges made for labor and services rendered in respect to any installing, repairing, cleaning, altering, or improving, of personal property of or for a nonresident, but this subsection (14) shall apply only when the seller agrees to, and does, deliver the property to the purchaser at a point outside this state, or delivers the property to a common or bona fide private carrier consigned to the purchaser at a point outside this state;

(15) Sales to nonresidents of this state for use outside of this state of watercraft requiring coast guard registration or registration by the state of principal use according to the Federal Boating Act of 1958, even though delivery be made within this state, but only when (a) the watercraft will not be used within this state for more than forty-five days and (b) an appropriate exemption certificate supported by identification ascertaining residence as provided by the department of revenue and signed by the purchaser or his agent establishing the fact that the purchaser is a nonresident and that the watercraft is for use outside of this state, one copy to be filed with the department of revenue with the regular report and a duplicate to be retained by the dealer.

(16) Sales of poultry for use in the production for sale of poultry or poultry products.

(17) Sales to nonresidents of this state for use outside of this state of machinery and implements for use in conducting a farming activity, when such machinery and implements will be transported immediately outside the state. As proof of exemption, an affidavit or certification in such form as the department of revenue shall require shall be made for each such sale, to be retained as a business record of the seller.

(18) Sales for use in states, territories and possessions of the United States which are not contiguous to any other state, but only when, as a necessary incident to the contract of sale, the seller delivers the subject matter of the sale to the purchaser or his designated agent at the usual receiving terminal of the carrier selected to transport the goods, under such circumstances that it is reasonably certain that the goods will be transported directly to a destination in such noncontiguous states, territories and possessions.

(19) Sales to municipal corporations, the state, and all political subdivisions thereof of tangible personal property consumed and/or of labor and services rendered in respect to contracts for watershed protection and/or flood prevention. This exemption shall be limited to that portion of the selling price which is reimbursed by the United States government according to the provisions of the Watershed Protection and Flood Prevention Act, Public Laws 566, as amended;

(20) Sales of semen for use in the artificial insemination of livestock;

(21) Sales to nonresidents of this state of tangible personal property for use outside this state when the purchaser has applied for and received from the department of revenue a permit certifying (1) that he is a bona fide resident of a state or possession or Province of Canada other than the state of Washington, (2) that such state, possession, or Province of Canada does not impose a retail sales tax or use tax of three percent or more or, if imposing such a tax, permits Washington residents exemption from otherwise taxable sales by reason of their residence, and (3) that he does agree, when requested, to grant the department of revenue access to such records and other forms of verification at his place of residence to assure that such purchases are not first used substantially in the state of Washington.

Any person claiming exemption from retail sales tax under the provisions of this subsection must display a nonresident permit as herein provided, and any vendor making a sale to a nonresident without collecting the tax must examine such permit, identify the purchaser as the person to whom the nonresident permit was issued, and maintain records which shall show the permit number attributable to each non-taxable sale.

Permits shall be personal and nontransferable, shall be renewable annually, and shall be issued by the department of revenue upon payment of a fee of one dollar. The department may in its discretion designate independent agents for the issuance of permits, according to such standards and qualifications as the department may prescribe. Such agents shall pay over and account to the department for all permit fees collected, after deducting as a collection fee the sum of fifty cents for each permit issued.

Any person making fraudulent statements in order to secure a permit shall be guilty of perjury. Any person making tax exempt purchases by displaying a permit not his own, or a counterfeit permit, with intent to violate the provisions of this subsection shall be guilty of a misdemeanor and, in addition, may be subject to a penalty not to exceed the amount of the tax due on such purchases. Any vendor who makes sales without collecting the tax to a person who does not hold a valid permit, and any vendor who fails to maintain records of permit numbers as provided in this section shall be personally liable for the amount of tax due.

(22) Sales of form lumber to any person engaged in the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon or above real property of or for consumers: *Provided*, That such lumber is used or to be used first by such person for the molding of concrete in a single such contract, project or job and is thereafter incorporated into the product of that same contract, project or job as an ingredient or component thereof.

(23) Sales of, cost of, or charges made for labor and services performed in respect to the mining, sorting, crushing, screening, washing, hauling, and stockpiling of sand, gravel and rock when such sand, gravel, or rock is taken from a pit or quarry which is owned by or leased to a county or a city, and such sand, gravel, or rock is (1) either stockpiled in said pit or quarry for placement or is placed on the street, road, place, or highway of the county or city by the county or city itself, or (2) sold by the county or city to a county, or a city at actual cost for placement on a publicly owned street, road, place, or highway. The exemption provided for in this subsection shall not apply to sales of, cost of, or charges made for such labor and services, if the sand, gravel, or rock is used for other than public road purposes or is sold otherwise than as provided for in this subsection.

(24) Sales of wearing apparel to persons who themselves use such wearing apparel only as a sample for display for the purpose of effecting sales of goods represented by such sample.

(25) Sales of pollen.

(26) Sales to one political subdivision by another political subdivision directly or indirectly arising out of or resulting from the annexation or incorporation of any part of the territory of one political subdivision by another.

(27) The renting or leasing of motor vehicles and trailers to a non-resident of this state for use exclusively in transporting persons or property across the boundaries of this state and in intrastate operations incidental thereto when such motor vehicle or trailer is registered and licensed in a foreign state and for purposes of this exemption the term "nonresident" shall apply to a renter or lessee who has one or more places of business in this state as well as in one or more other states but the exemption for nonresidents shall apply only to those vehicles which are most frequently dispatched, garaged, serviced, maintained and operated from the renter's or lessee's place of business in another state.

(28) Sales of prescription drugs. The term "prescription drugs" shall include any medicine, drug, prescription lens, or other substance other than food for use in the diagnosis, cure, mitigation, treatment, or prevention of disease or other ailment in humans ordered by (a) the written prescription to a pharmacist by a practitioner authorized by law of this state or laws of another jurisdiction to issue prescriptions, or (b) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by a duly licensed pharmacist, or (c) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist, or (d) physicians or optometrists by way of written directions and specifications for the preparation, grinding, and fabrication of lenses intended to aid or correct visual defects or anomalies of humans.

(29) Sales of returnable containers for beverages and foods, including but not limited to soft drinks, milk, beer, and mixers.

(30) Sales of insulin, prosthetic devices, and medically prescribed oxygen.

(31) Sales of food products for human consumption.

"Food products" include cereals and cereal products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products.

"Food products" include milk and milk products, milk shakes, malted milks, and any other similar type beverages which are composed at least in part of milk or a milk product and which require the use of milk or a milk product in their preparation.

"Food products" include all fruit juices, vegetable juices, and other beverages except bottled water, spirituous, malt or vinous liquors or carbonated beverages, whether liquid or frozen.

"Food products" do not include medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

The exemption of "food products" provided for in this paragraph shall not apply: (a) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others, or (b) when the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though such products are sold on a "takeout" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer, or (c) when the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments. [Initiative Measure No. 345 § 1 (approved November 8, 1977); 1975 1st ex.s. c 291 § 10; 1974 ex.s. c 185 § 1; 1971 ex.s. c 11 § 1; 1970 ex.s. c 65 § 6; 1967 ex.s. c 149 § 20; 1967 c 87 § 1; 1965 ex.s. c 173 § 14; 1963 ex.s. c 28 § 3; 1961 c 293 § 7; 1961 c 15 § 82.08.030. Prior: 1959 ex.s. c 3 § 6; 1955 c 137 § 1; 1951 1st ex.s. c 9 § 2; 1949 c 228 § 5; 1945 c 249 § 5; 1943 c 156 § 7; 1939 c 225 § 9; 1935 c 180 § 19; Rem. Supp. 1949 § 8370-19.]

Reviser's note: RCW 82.08.030 was amended twice during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

RCW 82.08.030 was also amended by Initiative Measure No. 345 § 1 (approved November 8, 1977) without reference to either 1977 1st ex.s. c 166 § 7 or 1977 1st ex.s. c 179 § 1.

Reviser's note: The "director of motor vehicles" redesignated the "director of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Effective date—Initiative Measure No. 345: "The provisions of this 1977 amendatory act shall take effect July 1, 1978." [Initiative Measure No. 345 § 3 (approved November 8, 1977).]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

Effective date—1974 ex.s. c 185: "This 1974 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, 1974." [1974 ex.s. c 185 § 3.]

Effective date—1971 ex.s. c 11: "The effective date of this 1971 amendatory act is July 1, 1971." [1971 ex.s. c 11 § 3.]

Chapter 82.12 USE TAX

Sections

82.12.020	Use tax imposed.
82.12.030	Exemptions (as amended by 1977 1st ex.s. c 166).
82.12.030	Exemptions (as amended by 1977 1st ex.s. c 169).
82.12.030	Exemptions (as amended by 1977 1st ex.s. c 179).
82.12.030	Exemptions (as amended by Initiative Measure No. 345, effective July 1, 1978).

82.12.020 Use tax imposed. There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using within this state as a consumer any article of tangible personal property purchased at retail, or acquired by lease, gift, repossession, or bailment, or extracted or produced or manufactured by the person so using the same, or otherwise furnished to a person engaged in any business taxable under RCW 82.04.280, subsections (2) or (7). This tax will not apply with respect to the use of any article

of tangible personal property purchased, extracted, produced or manufactured outside this state until the transportation of such article has finally ended or until such article has become commingled with the general mass of property in this state. This tax shall apply to the use of every article of tangible personal property, including property acquired at a casual or isolated sale, and including byproducts used by the manufacturer thereof, except as hereinafter provided, irrespective of whether the article or similar articles are manufactured or are available for purchase within this state. Except as provided in subdivision (2) of RCW 82.12.030, payment by one purchaser or user of tangible personal property of the tax imposed by chapter 82.08 or 82.12 RCW shall not have the effect of exempting any other purchaser or user of the same property from the taxes imposed by such chapters. The tax shall be levied and collected in an amount equal to the value of the article used by the taxpayer multiplied by the rate of four and one-half percent: *Provided*, That from and after the first day of June, 1976, until the thirtieth day of June, 1979, such tax shall be levied and collected in an amount equal to the value of the article used by the taxpayer multiplied by the rate of four and six-tenths percent. [1977 1st ex.s. c 324 § 3; 1975-'76 2nd ex.s. c 130 § 2; 1975 2nd ex.s. c 1 § 2; 1971 ex.s. c 281 § 10; 1969 ex.s. c 262 § 32; 1967 ex.s. c 149 § 22; 1965 ex.s. c 173 § 18; 1961 c 293 § 9; 1961 c 15 § 82.12.020. Prior: 1959 ex.s. c 3 § 10; 1955 ex.s. c 10 § 3; 1955 c 389 § 25; 1949 c 228 § 7; 1943 c 156 § 8; 1941 c 76 § 6; 1939 c 225 § 14; 1937 c 191 § 1; 1935 c 180 § 31; Rem. Supp. 1949 § 8370-31.]

Effective date—1975-'76 2nd ex.s. c 130: See note following RCW 82.08.020.

Application of 1975-'76 amendment to preexisting contracts—1975-'76 2nd ex.s. c 1: See note following RCW 82.12.010.

Severability—1975-'76 2nd ex.s. c 1: See note following RCW 82.12.010.

82.12.030 Exemptions (as amended by 1977 1st ex.s. c 166). The provisions of this chapter shall not apply:

(1) In respect to the use of any article of tangible personal property brought into the state by a nonresident thereof for his use or enjoyment while temporarily within the state unless such property is used in conducting a nontransitory business activity within the state; or in respect to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than three months, and which is not required to be registered or licensed under the laws of this state; or in respect to the use of household goods, personal effects and private automobiles by a bona fide resident of this state, if such articles were acquired and used, by such person in another state while a bona fide resident thereof and such acquisition and use occurred more than thirty days prior to the time he entered this state;

(2) In respect to the use of any article of tangible personal property purchased at retail or acquired by lease, gift or bailment if the sale thereof to, or the use thereof by, the present user or his bailor or donor has already been subjected to the tax under chapter 82.08 or 82.12 RCW and such tax has been paid by the present user or by his bailor or donor; or in respect to the use of property acquired by bailment and such tax has once been paid based on reasonable rental as determined by RCW 82.12.060 measured by the value of the article at time of first use multiplied by the tax rate imposed by chapter 82.08 or 82.12 RCW as of the time of first use; or in respect to the use of any article of tangible personal property acquired by bailment, if the property was acquired by a previous bailee from the same bailor for use in the same general activity and such original bailment was prior to June 9, 1961;

(3) In respect to the use of any article of tangible personal property the sale of which is specifically taxable under chapter 82.16 RCW;

(4) In respect to the use of any airplane, locomotive, railroad car, or watercraft used primarily in conducting interstate or foreign commerce by transporting therein or therewith property and persons for hire or used primarily in commercial deep sea fishing operations outside the territorial waters of the state, and in respect to use of tangible personal property which becomes a component part of any such airplane, locomotive, railroad car, or watercraft, and in respect to the use by a nonresident of this state of any motor vehicle or trailer used exclusively in transporting persons or property across the boundaries of this state and in intrastate operations incidental thereto when such motor vehicle or trailer is registered and licensed in a foreign state and in respect to the use by a nonresident of this state of any motor vehicle or trailer so registered and licensed and used within this state for a period not exceeding fifteen consecutive days under such rules as the department of revenue shall adopt: *Provided*, That under circumstances determined to be justifiable by the department of revenue a second fifteen day period may be authorized consecutive with the first fifteen day period; and for the purposes of this exemption the term "nonresident" as used herein, shall include a user who has one or more places of business in this state as well as in one or more other states, but the exemption for nonresidents shall apply only to those vehicles which are most frequently dispatched, garaged, serviced, maintained, and operated from the user's place of business in another state; and in respect to the use by the holder of a carrier permit issued by the Interstate Commerce Commission of any motor vehicle or trailer whether owned by or leased with or without driver to the permit holder and used in substantial part in the normal and ordinary course of the user's business for transporting therein persons or property for hire across the boundaries of this state if the first use of which within this state is actual use in conducting interstate or foreign commerce; and in respect to the use of any motor vehicle or trailer while being operated under the authority of a one-transit permit issued by the director of motor vehicles pursuant to *RCW 46.16.100 and moving upon the highways from the point of delivery in this state to a point outside this state; and in respect to the use of tangible personal property which becomes a component part of any motor vehicle or trailer used by the holder of a carrier permit issued by the Interstate Commerce Commission authorizing transportation by motor vehicle across the boundaries of this state whether such motor vehicle or trailer is owned by or leased with or without driver to the permit holder;

(5) In respect to the use of any article of tangible personal property which the state is prohibited from taxing under the Constitution of the state or under the Constitution or laws of the United States;

(6) In respect to the use of motor vehicle fuel used in aircraft by the manufacturer thereof for research, development, and testing purposes and motor vehicle fuel taxable under chapter 82.36 RCW: *Provided*, That the use of such fuel upon which a refund of the motor vehicle fuel tax is obtained shall not be exempt, and the director of motor vehicles shall deduct from the amount of such tax to be refunded the amount of tax due under this chapter and remit the same each month to the department of revenue;

(7) In respect to the use of any article of tangible personal property included within the transfer of the title to the entire operating property of a publicly or privately owned public utility, or of a complete operating integral section thereof, by the state or a political subdivision thereof in conducting any business defined in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), or (11) of RCW 82.16.010;

(8) In respect to the use of tangible personal property (including household goods) which have been used in conducting a farm activity, if such property was purchased from a farmer at an auction sale held or conducted by an auctioneer upon a farm and not otherwise;

(9) In respect to the use of tangible personal property by corporations which have been incorporated under any act of the congress of the United States and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, flood, and other national calamities and to devise and carry on measures for preventing the same;

(10) In respect to the use of purebred livestock for breeding purposes where said animals are registered in a nationally recognized breed association; sales of cattle and milk cows used on the farm;

(11) In respect to the use of poultry in the production for sale of poultry or poultry products;

(12) In respect to the use of fuel by the extractor or manufacturer thereof when used directly in the operation of the particular extractive

operation or manufacturing plant which produced or manufactured the same;

(13) In respect to the use of motor vehicles, equipped with dual controls, which are loaned to and used exclusively by a school in connection with its driver training program: *Provided*, That this exemption and the term "school" shall apply only to (a) the University of Washington, Washington State University, the state colleges and the state community colleges or (b) any public, private or parochial school accredited by either the state board of education or by the University of Washington (the state accrediting station) or (c) any public vocational school meeting the standards, courses and requirements established and prescribed or approved in accordance with the Community College Act of 1967 (chapter 8, Laws of 1967 first extraordinary session);

(14) In respect to the use by a bailee of any article of tangible personal property which is entirely consumed in the course of research, development, experimental and testing activities conducted by the user, provided the acquisition or use of such articles by the bailor was not subject to the taxes imposed by chapter 82.08 RCW or chapter 82.12 RCW;

(15) In respect to the use by residents of this state of motor vehicles and trailers acquired and used while such persons are members of the armed services and are stationed outside this state pursuant to military orders, but this exemption shall not apply to members of the armed services called to active duty for training purposes for periods of less than six months and shall not apply to the use of motor vehicles or trailers acquired less than thirty days prior to the discharge or release from active duty of any person from the armed services;

(16) In respect to the use of semen in the artificial insemination of livestock;

(17) In respect to the use of form lumber by any person engaged in the constructing, repairing, decorating or improving of new or existing buildings or other structures under, upon or above real property of or for consumers: *Provided*, That such lumber is used or to be used first by such person for the molding of concrete in a single such contract, project or job and is thereafter incorporated into the product of that same contract, project or job as an ingredient or component thereof;

(18) In respect to the use of any sand, gravel, or rock to the extent of the cost of or charges made for labor and services performed in respect to the mining, sorting, crushing, screening, washing, hauling, and stockpiling such sand, gravel, or rock, when such sand, gravel, or rock is taken from a pit or quarry which is owned by or leased to a county or a city, and such sand, gravel, or rock is (1) either stockpiled in said pit or quarry for placement or is placed on the street, road, place, or highway of the county or city by the county or city itself, or (2) sold by the county or city to a county, or a city at actual cost for placement on a publicly owned street, road, place, or highway. The exemption provided for in this subsection shall not apply to the use of such material to the extent of the cost of or charge made for such labor and services, if the material is used for other than public road purposes or is sold otherwise than as provided for in this subsection.

(19) In respect to the use of wearing apparel only as a sample for display for the purpose of effecting sales of goods represented by such sample.

(20) In respect to the use of tangible personal property held for sale and displayed in single trade shows for a period not in excess of thirty days, the primary purpose of which is to promote the sale of products or services.

(21) In respect to the use of pollen.

(22) In respect to the use of the personal property of one political subdivision by another political subdivision directly or indirectly arising out of or resulting from the annexation or incorporation of any part of the territory of one political subdivision by another.

(23) In respect to the use of prescription drugs. The term "prescription drugs" shall include any medicine, drug, prescription lens, or other substance other than food for use in the diagnosis, cure, mitigation, treatment, or prevention of disease or other ailment in humans ordered by (a) the written prescription to a pharmacist by a practitioner authorized by law of this state or laws of another jurisdiction to issue prescriptions, or (b) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by a duly licensed pharmacist, or (c) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist, or (d) physicians or optometrists by way of written directions and specifications for the preparation, grinding, and

fabrication of lenses intended to aid or correct visual defects or anomalies of humans.

(24) In respect to the use of returnable containers for beverages and foods, including but not limited to soft drinks, milk, beer, and mixers.

(25) In respect to the use of insulin, prosthetic devices, and medically prescribed oxygen.

(26) In respect to the use of ferry vessels of the state of Washington in transporting pedestrian or vehicular traffic within and outside the territorial waters of the state and in respect to the use of tangible personal property which becomes a component part of any such ferry vessel. [1977 1st ex.s. c 166 § 7; 1975 1st ex.s. c 291 § 11; 1974 ex.s. c 185 § 2; 1971 ex.s. c 299 § 10; 1971 ex.s. c 11 § 2; 1970 ex.s. c 65 § 7; 1967 ex.s. c 149 § 23; 1965 ex.s. c 173 § 19; 1963 ex.s. c 28 § 4; 1963 c 76 § 1; 1961 c 293 § 10; 1961 c 15 § 82.12.030. Prior: 1959 ex.s. c 3 § 11; 1955 c 389 § 26; 1955 c 137 § 2; 1951 1st ex.s. c 9 § 4; 1949 c 228 § 8; 1945 c 249 § 6; 1943 c 156 § 9; 1941 c 178 § 9a; 1939 c 225 § 15; 1937 c 191 § 2; 1935 c 180 § 32; Rem. Supp. 1949 § 8370-32.]

Severability—1977 1st ex.s. c 166: See notes following RCW 47.60.650.

82.12.030 Exemptions (as amended by 1977 1st ex.s. c 169). The provisions of this chapter shall not apply:

(1) In respect to the use of any article of tangible personal property brought into the state by a nonresident thereof for his use or enjoyment while temporarily within the state unless such property is used in conducting a nontransitory business activity within the state; or in respect to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than three months, and which is not required to be registered or licensed under the laws of this state; or in respect to the use of household goods, personal effects and private automobiles by a bona fide resident of this state, if such articles were acquired and used by such person in another state while a bona fide resident thereof and such acquisition and use occurred more than thirty days prior to the time he entered this state;

(2) In respect to the use of any article of tangible personal property purchased at retail or acquired by lease, gift or bailment if the sale thereof to, or the use thereof by, the present user or his bailor or donor has already been subjected to the tax under chapter 82.08 or 82.12 RCW and such tax has been paid by the present user or by his bailor or donor; or in respect to the use of property acquired by bailment and such tax has once been paid based on reasonable rental as determined by RCW 82.12.060 measured by the value of the article at time of first use multiplied by the tax rate imposed by chapter 82.08 or 82.12 RCW as of the time of first use; or in respect to the use of any article of tangible personal property acquired by bailment, if the property was acquired by a previous bailee from the same bailor for use in the same general activity and such original bailment was prior to June 9, 1961;

(3) In respect to the use of any article of tangible personal property the sale of which is specifically taxable under chapter 82.16 RCW;

(4) In respect to the use of any airplane, locomotive, railroad car, or watercraft used primarily in conducting interstate or foreign commerce by transporting therein or therewith property and persons for hire or used primarily in commercial deep sea fishing operations outside the territorial waters of the state, and in respect to use of tangible personal property which becomes a component part of any such airplane, locomotive, railroad car, or watercraft, and in respect to the use by a nonresident of this state of any motor vehicle or trailer used exclusively in transporting persons or property across the boundaries of this state and in intrastate operations incidental thereto when such motor vehicle or trailer is registered and licensed in a foreign state and in respect to the use by a nonresident of this state of any motor vehicle or trailer so registered and licensed and used within this state for a period not exceeding fifteen consecutive days under such rules as the department of revenue shall adopt: *Provided*, That under circumstances determined to be justifiable by the department of revenue a second fifteen day period may be authorized consecutive with the first fifteen day period; and for the purposes of this exemption the term "nonresident" as used herein, shall include a user who has one or more places of business in this state as well as in one or more other states, but the exemption for nonresidents shall apply only to those vehicles which are most frequently dispatched, garaged, serviced, maintained, and operated from the user's place of business in another state; and in respect to the use by the holder of a carrier permit issued by the Interstate Commerce Commission of any motor vehicle or trailer whether owned by or leased with or without driver to the permit holder and used in substantial part in the normal and ordinary course of the user's business for

transporting therein persons or property for hire across the boundaries of this state if the first use of which within this state is actual use in conducting interstate or foreign commerce; and in respect to the use of any motor vehicle or trailer while being operated under the authority of a one-transit permit issued by the director of motor vehicles pursuant to *RCW 46.16.100 and moving upon the highways from the point of delivery in this state to a point outside this state; and in respect to the use of tangible personal property which becomes a component part of any motor vehicle or trailer used by the holder of a carrier permit issued by the Interstate Commerce Commission authorizing transportation by motor vehicle across the boundaries of this state whether such motor vehicle or trailer is owned by or leased with or without driver to the permit holder;

(5) In respect to the use of any article of tangible personal property which the state is prohibited from taxing under the Constitution of the state or under the Constitution or laws of the United States;

(6) In respect to the use of motor vehicle fuel used in aircraft by the manufacturer thereof for research, development, and testing purposes and motor vehicle fuel taxable under chapter 82.36 RCW: *Provided*, That the use of such fuel upon which a refund of the motor vehicle fuel tax is obtained shall not be exempt, and the director of motor vehicles shall deduct from the amount of such tax to be refunded the amount of tax due under this chapter and remit the same each month to the department of revenue;

(7) In respect to the use of any article of tangible personal property included within the transfer of the title to the entire operating property of a publicly or privately owned public utility, or of a complete operating integral section thereof, by the state or a political subdivision thereof in conducting any business defined in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), or (11) of RCW 82.16.010;

(8) In respect to the use of tangible personal property (including household goods) which have been used in conducting a farm activity, if such property was purchased from a farmer at an auction sale held or conducted by an auctioneer upon a farm and not otherwise;

(9) In respect to the use of tangible personal property by corporations which have been incorporated under any act of the congress of the United States and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, flood, and other national calamities and to devise and carry on measures for preventing the same;

(10) In respect to the use of purebred livestock for breeding purposes where said animals are registered in a nationally recognized breed association; sales of cattle and milk cows used on the farm;

(11) In respect to the use of poultry in the production for sale of poultry or poultry products;

(12) In respect to the use of fuel by the extractor or manufacturer thereof when used directly in the operation of the particular extractive operation or manufacturing plant which produced or manufactured the same;

(13) In respect to the use of motor vehicles, equipped with dual controls, which are loaned to and used exclusively by a school in connection with its driver training program: *Provided*, That this exemption and the term "school" shall apply only to (a) the University of Washington, Washington State University, the regional universities, The Evergreen State College and the state community colleges or (b) any public, private or parochial school accredited by either the state board of education or by the University of Washington (the state accrediting station) or (c) any public vocational school meeting the standards, courses and requirements established and prescribed or approved in accordance with the Community College Act of 1967 (chapter 8, Laws of 1967 first extraordinary session);

(14) In respect to the use by a bailee of any article of tangible personal property which is entirely consumed in the course of research, development, experimental and testing activities conducted by the user, provided the acquisition or use of such articles by the bailor was not subject to the taxes imposed by chapter 82.08 RCW or chapter 82.12 RCW;

(15) In respect to the use by residents of this state of motor vehicles and trailers acquired and used while such persons are members of the armed services and are stationed outside this state pursuant to military orders, but this exemption shall not apply to members of the armed services called to active duty for training purposes for periods of less than six months and shall not apply to the use of motor vehicles or trailers acquired less than thirty days prior to the discharge or release from active duty of any person from the armed services;

(16) In respect to the use of semen in the artificial insemination of livestock;

(17) In respect to the use of form lumber by any person engaged in the constructing, repairing, decorating or improving of new or existing buildings or other structures under, upon or above real property of or for consumers: *Provided*, That such lumber is used or to be used first by such person for the molding of concrete in a single such contract, project or job and is thereafter incorporated into the product of that same contract, project or job as an ingredient or component thereof;

(18) In respect to the use of any sand, gravel, or rock to the extent of the cost of or charges made for labor and services performed in respect to the mining, sorting, crushing, screening, washing, hauling, and stockpiling such sand, gravel, or rock, when such sand, gravel, or rock is taken from a pit or quarry which is owned by or leased to a county or a city, and such sand, gravel, or rock is (1) either stockpiled in said pit or quarry for placement or is placed on the street, road, place, or highway of the county or city by the county or city itself, or (2) sold by the county or city to a county, or a city at actual cost for placement on a publicly owned street, road, place, or highway. The exemption provided for in this subsection shall not apply to the use of such material to the extent of the cost of or charge made for such labor and services, if the material is used for other than public road purposes or is sold otherwise than as provided for in this subsection.

(19) In respect to the use of wearing apparel only as a sample for display for the purpose of effecting sales of goods represented by such sample.

(20) In respect to the use of tangible personal property held for sale and displayed in single trade shows for a period not in excess of thirty days, the primary purpose of which is to promote the sale of products or services.

(21) In respect to the use of pollen.

(22) In respect to the use of the personal property of one political subdivision by another political subdivision directly or indirectly arising out of or resulting from the annexation or incorporation of any part of the territory of one political subdivision by another.

(23) In respect to the use of prescription drugs. The term "prescription drugs" shall include any medicine, drug, prescription lens, or other substance other than food for use in the diagnosis, cure, mitigation, treatment, or prevention of disease or other ailment in humans ordered by (a) the written prescription to a pharmacist by a practitioner authorized by law of this state or laws of another jurisdiction to issue prescriptions, or (b) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by a duly licensed pharmacist, or (c) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist, or (d) physicians or optometrists by way of written directions and specifications for the preparation, grinding, and fabrication of lenses intended to aid or correct visual defects or anomalies of humans.

(24) In respect to the use of returnable containers for beverages and foods, including but not limited to soft drinks, milk, beer, and mixers.

(25) In respect to the use of insulin, prosthetic devices, and medically prescribed oxygen. [1977 1st ex.s. c 169 § 111; 1975 1st ex.s. c 291 § 11; 1974 ex.s. c 185 § 2; 1971 ex.s. c 299 § 10; 1971 ex.s. c 11 § 2; 1970 ex.s. c 65 § 7; 1967 ex.s. c 149 § 23; 1965 ex.s. c 173 § 19; 1963 ex.s. c 28 § 4; 1963 c 76 § 1; 1961 c 293 § 10; 1961 c 15 § 82.12.030. Prior: 1959 ex.s. c 3 § 11; 1955 c 389 § 26; 1955 c 137 § 2; 1951 1st ex.s. c 9 § 4; 1949 c 228 § 8; 1945 c 249 § 6; 1943 c 156 § 9; 1941 c 178 § 9a; 1939 c 225 § 15; 1937 c 191 § 2; 1935 c 180 § 32; Rem. Supp. 1949 § 8370-32.]

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.061.

82.12.030 Exemptions (as amended by 1977 1st ex.s. c 179). The provisions of this chapter shall not apply:

(1) In respect to the use of any article of tangible personal property brought into the state by a nonresident thereof for his use or enjoyment while temporarily within the state unless such property is used in conducting a nontransitory business activity within the state; or in respect to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than three months, and which is not required to be registered or licensed under the laws of this state; or in respect to the use of household goods, personal effects and private automobiles by a bona fide resident of this state, if such articles were acquired and used by such person in another state while a bona fide

resident thereof and such acquisition and use occurred more than thirty days prior to the time he entered this state;

(2) In respect to the use of any article of tangible personal property purchased at retail or acquired by lease, gift or bailment if the sale thereof to, or the use thereof by, the present user or his bailor or donor has already been subjected to the tax under chapter 82.08 or 82.12 RCW and such tax has been paid by the present user or by his bailor or donor; or in respect to the use of property acquired by bailment and such tax has once been paid based on reasonable rental as determined by RCW 82.12.060 measured by the value of the article at time of first use multiplied by the tax rate imposed by chapter 82.08 or 82.12 RCW as of the time of first use; or in respect to the use of any article of tangible personal property acquired by bailment, if the property was acquired by a previous bailee from the same bailor for use in the same general activity and such original bailment was prior to June 9, 1961;

(3) In respect to the use of any article of tangible personal property the sale of which is specifically taxable under chapter 82.16 RCW;

(4) In respect to the use of any airplane, locomotive, railroad car, or watercraft used primarily in conducting interstate or foreign commerce by transporting therein or therewith property and persons for hire or used primarily in commercial deep sea fishing operations outside the territorial waters of the state, and in respect to use of tangible personal property which becomes a component part of any such airplane, locomotive, railroad car, or watercraft, and in respect to the use by a non-resident of this state of any motor vehicle or trailer used exclusively in transporting persons or property across the boundaries of this state and in intrastate operations incidental thereto when such motor vehicle or trailer is registered and licensed in a foreign state and in respect to the use by a nonresident of this state of any motor vehicle or trailer so registered and licensed and used within this state for a period not exceeding fifteen consecutive days under such rules as the department of revenue shall adopt: *Provided*, That under circumstances determined to be justifiable by the department of revenue a second fifteen day period may be authorized consecutive with the first fifteen day period; and for the purposes of this exemption the term "nonresident" as used herein, shall include a user who has one or more places of business in this state as well as in one or more other states, but the exemption for nonresidents shall apply only to those vehicles which are most frequently dispatched, garaged, serviced, maintained, and operated from the user's place of business in another state; and in respect to the use by the holder of a carrier permit issued by the Interstate Commerce Commission of any motor vehicle or trailer whether owned by or leased with or without driver to the permit holder and used in substantial part in the normal and ordinary course of the user's business for transporting therein persons or property for hire across the boundaries of this state if the first use of which within this state is actual use in conducting interstate or foreign commerce; and in respect to the use of any motor vehicle or trailer while being operated under the authority of a one-transit permit issued by the director of motor vehicles pursuant to *RCW 46.16.100 and moving upon the highways from the point of delivery in this state to a point outside this state; and in respect to the use of tangible personal property which becomes a component part of any motor vehicle or trailer used by the holder of a carrier permit issued by the Interstate Commerce Commission authorizing transportation by motor vehicle across the boundaries of this state whether such motor vehicle or trailer is owned by or leased with or without driver to the permit holder;

(5) In respect to the use of any article of tangible personal property which the state is prohibited from taxing under the Constitution of the state or under the Constitution or laws of the United States;

(6) In respect to the use of motor vehicle fuel used in aircraft by the manufacturer thereof for research, development, and testing purposes and motor vehicle fuel taxable under chapter 82.36 RCW: *Provided*, That the use of such fuel upon which a refund of the motor vehicle fuel tax is obtained shall not be exempt, and the director of motor vehicles shall deduct from the amount of such tax to be refunded the amount of tax due under this chapter and remit the same each month to the department of revenue;

(7) In respect to the use of any article of tangible personal property included within the transfer of the title to the entire operating property of a publicly or privately owned public utility, or of a complete operating integral section thereof, by the state or a political subdivision thereof in conducting any business defined in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), or (11) of RCW 82.16.010;

(8) In respect to the use of tangible personal property (including household goods) which have been used in conducting a farm activity,

if such property was purchased from a farmer at an auction sale held or conducted by an auctioneer upon a farm and not otherwise;

(9) In respect to the use of tangible personal property by corporations which have been incorporated under any act of the congress of the United States and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, flood, and other national calamities and to devise and carry on measures for preventing the same;

(10) In respect to the use of purebred livestock for breeding purposes where said animals are registered in a nationally recognized breed association; sales of cattle and milk cows used on the farm;

(11) In respect to the use of poultry in the production for sale of poultry or poultry products;

(12) In respect to the use of fuel by the extractor or manufacturer thereof when used directly in the operation of the particular extractive operation or manufacturing plant which produced or manufactured the same;

(13) In respect to the use of motor vehicles, equipped with dual controls, which are loaned to and used exclusively by a school in connection with its driver training program: *Provided*, That this exemption and the term "school" shall apply only to (a) the University of Washington, Washington State University, the state colleges and the state community colleges or (b) any public, private or parochial school accredited by either the state board of education or by the University of Washington (the state accrediting station) or (c) any public vocational school meeting the standards, courses and requirements established and prescribed or approved in accordance with the Community College Act of 1967 (chapter 8, Laws of 1967 first extraordinary session);

(14) In respect to the use by a bailee of any article of tangible personal property which is entirely consumed in the course of research, development, experimental and testing activities conducted by the user, provided the acquisition or use of such articles by the bailor was not subject to the taxes imposed by chapter 82.08 RCW or chapter 82.12 RCW;

(15) In respect to the use by residents of this state of motor vehicles and trailers acquired and used while such persons are members of the armed services and are stationed outside this state pursuant to military orders, but this exemption shall not apply to members of the armed services called to active duty for training purposes for periods of less than six months and shall not apply to the use of motor vehicles or trailers acquired less than thirty days prior to the discharge or release from active duty of any person from the armed services;

(16) In respect to the use of semen in the artificial insemination of livestock;

(17) In respect to the use of form lumber by any person engaged in the constructing, repairing, decorating or improving of new or existing buildings or other structures under, upon or above real property of or for consumers: *Provided*, That such lumber is used or to be used first by such person for the molding of concrete in a single such contract, project or job and is thereafter incorporated into the product of that same contract, project or job as an ingredient or component thereof;

(18) In respect to the use of any sand, gravel, or rock to the extent of the cost of or charges made for labor and services performed in respect to the mining, sorting, crushing, screening, washing, hauling, and stockpiling such sand, gravel, or rock, when such sand, gravel, or rock is taken from a pit or quarry which is owned by or leased to a county or a city, and such sand, gravel, or rock is (1) either stockpiled in said pit or quarry for placement or is placed on the street, road, place, or highway of the county or city by the county or city itself, or (2) sold by the county or city to a county, or a city at actual cost for placement on a publicly owned street, road, place, or highway. The exemption provided for in this subsection shall not apply to the use of such material to the extent of the cost of or charge made for such labor and services, if the material is used for other than public road purposes or is sold otherwise than as provided for in this subsection.

(19) In respect to the use of wearing apparel only as a sample for display for the purpose of effecting sales of goods represented by such sample.

(20) In respect to the use of tangible personal property held for sale and displayed in single trade shows for a period not in excess of thirty days, the primary purpose of which is to promote the sale of products or services.

(21) In respect to the use of pollen.

(22) In respect to the use of the personal property of one political subdivision by another political subdivision directly or indirectly arising out of or resulting from the annexation or incorporation of any part of the territory of one political subdivision by another.

(23) In respect to the use of prescription drugs, including the use by the state or a political subdivision or municipal corporation thereof of drugs to be dispensed to patients by prescription without charge. The term "prescription drugs" shall include any medicine, drug, prescription lens, or other substance other than food for use in the diagnosis, cure, mitigation, treatment, or prevention of disease or other ailment in humans ordered by (a) the written prescription to a pharmacist by a practitioner authorized by law of this state or laws of another jurisdiction to issue prescriptions, or (b) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by a duly licensed pharmacist, or (c) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist, or (d) physicians or optometrists by way of written directions and specifications for the preparation, grinding, and fabrication of lenses intended to aid or correct visual defects or anomalies of humans.

(24) In respect to the use of returnable containers for beverages and foods, including but not limited to soft drinks, milk, beer, and mixers.

(25) In respect to the use of insulin, prosthetic devices, and medically prescribed oxygen. [1977 1st ex.s. c 179 § 2; 1975 1st ex.s. c 291 § 11; 1974 ex.s. c 185 § 2; 1971 ex.s. c 299 § 10; 1971 ex.s. c 11 § 2; 1970 ex.s. c 65 § 7; 1967 ex.s. c 149 § 23; 1965 ex.s. c 173 § 19; 1963 ex.s. c 28 § 4; 1963 c 76 § 1; 1961 c 293 § 10; 1961 c 15 § 82.12.030. Prior: 1959 ex.s. c 3 § 11; 1955 c 389 § 26; 1955 c 137 § 2; 1951 1st ex.s. c 9 § 4; 1949 c 228 § 8; 1945 c 249 § 6; 1943 c 156 § 9; 1941 c 178 § 9a; 1939 c 225 § 15; 1937 c 191 § 2; 1935 c 180 § 32; Rem. Supp. 1949 § 8370-32.]

Effective date—1977 1st ex.s. c 179: See note following RCW 82.08.030.

82.12.030 Exemptions (as amended by Initiative Measure No. 345, effective July 1, 1978). The provisions of this chapter shall not apply:

(1) In respect to the use of any article of tangible personal property brought into the state by a nonresident thereof for his use or enjoyment while temporarily within the state unless such property is used in conducting a nontransitory business activity within the state; or in respect to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than three months, and which is not required to be registered or licensed under the laws of this state; or in respect to the use of household goods, personal effects and private automobiles by a bona fide resident of this state, if such articles were acquired and used by such person in another state while a bona fide resident thereof and such acquisition and use occurred more than thirty days prior to the time he entered this state;

(2) In respect to the use of any article of tangible personal property purchased at retail or acquired by lease, gift or bailment if the sale thereof to, or the use thereof by, the present user or his bailor or donor has already been subjected to the tax under chapter 82.08 or 82.12 RCW and such tax has been paid by the present user or by his bailor or donor; or in respect to the use of property acquired by bailment and such tax has once been paid based on reasonable rental as determined by RCW 82.12.060 measured by the value of the article at time of first use multiplied by the tax rate imposed by chapter 82.08 or 82.12 RCW as of the time of first use; or in respect to the use of any article of tangible personal property acquired by bailment, if the property was acquired by a previous bailee from the same bailor for use in the same general activity and such original bailment was prior to June 9, 1961;

(3) In respect to the use of any article of tangible personal property the sale of which is specifically taxable under chapter 82.16 RCW;

(4) In respect to the use of any airplane, locomotive, railroad car, or watercraft used primarily in conducting interstate or foreign commerce by transporting therein or therewith property and persons for hire or used primarily in commercial deep sea fishing operations outside the territorial waters of the state, and in respect to use of tangible personal property which becomes a component part of any such airplane, locomotive, railroad car, or watercraft, and in respect to the use by a nonresident of this state of any motor vehicle or trailer used exclusively in transporting persons or property across the boundaries of this state and in intrastate operations incidental thereto when such motor vehicle or trailer is registered and licensed in a foreign state and in respect to the

use by a nonresident of this state of any motor vehicle or trailer so registered and licensed and used within this state for a period not exceeding fifteen consecutive days under such rules as the department of revenue shall adopt: *Provided*, That under circumstances determined to be justifiable by the department of revenue a second fifteen day period may be authorized consecutive with the first fifteen day period; and for the purposes of this exemption the term "nonresident" as used herein, shall include a user who has one or more places of business in this state as well as in one or more other states, but the exemption for nonresidents shall apply only to those vehicles which are most frequently dispatched, garaged, serviced, maintained, and operated from the user's place of business in another state; and in respect to the use by the holder of a carrier permit issued by the Interstate Commerce Commission of any motor vehicle or trailer whether owned by or leased with or without driver to the permit holder and used in substantial part in the normal and ordinary course of the user's business for transporting therein persons or property for hire across the boundaries of this state if the first use of which within this state is actual use in conducting interstate or foreign commerce; and in respect to the use of any motor vehicle or trailer while being operated under the authority of a one-transit permit issued by the director of motor vehicles pursuant to *RCW 46.16.100 and moving upon the highways from the point of delivery in this state to a point outside this state; and in respect to the use of tangible personal property which becomes a component part of any motor vehicle or trailer used by the holder of a carrier permit issued by the Interstate Commerce Commission authorizing transportation by motor vehicle across the boundaries of this state whether such motor vehicle or trailer is owned by or leased with or without driver to the permit holder;

(5) In respect to the use of any article of tangible personal property which the state is prohibited from taxing under the Constitution of the state or under the Constitution or laws of the United States;

(6) In respect to the use of motor vehicle fuel used in aircraft by the manufacturer thereof for research, development, and testing purposes and motor vehicle fuel taxable under chapter 82.36 RCW: *Provided*, That the use of such fuel upon which a refund of the motor vehicle fuel tax is obtained shall not be exempt, and the director of motor vehicles shall deduct from the amount of such tax to be refunded the amount of tax due under this chapter and remit the same each month to the department of revenue;

(7) In respect to the use of any article of tangible personal property included within the transfer of the title to the entire operating property of a publicly or privately owned public utility, or of a complete operating integral section thereof, by the state or a political subdivision thereof in conducting any business defined in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), or (11) of RCW 82.16.010;

(8) In respect to the use of tangible personal property (including household goods) which have been used in conducting a farm activity, if such property was purchased from a farmer at an auction sale held or conducted by an auctioneer upon a farm and not otherwise;

(9) In respect to the use of tangible personal property by corporations which have been incorporated under any act of the congress of the United States and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, flood, and other national calamities and to devise and carry on measures for preventing the same;

(10) In respect to the use of purebred livestock for breeding purposes where said animals are registered in a nationally recognized breed association; sales of cattle and milk cows used on the farm;

(11) In respect to the use of poultry in the production for sale of poultry or poultry products;

(12) In respect to the use of fuel by the extractor or manufacturer thereof when used directly in the operation of the particular extractive operation or manufacturing plant which produced or manufactured the same;

(13) In respect to the use of motor vehicles, equipped with dual controls, which are loaned to and used exclusively by a school in connection with its driver training program: *Provided*, That this exemption and the term "school" shall apply only to (a) the University of Washington, Washington State University, the state colleges and the state community colleges or (b) any public, private or parochial school accredited by either the state board of education or by the University of Washington (the state accrediting station) or (c) any public vocational school meeting the standards, courses and requirements established and prescribed or approved in accordance with the Community

College Act of 1967 (chapter 8, Laws of 1967 first extraordinary session);

(14) In respect to the use by a bailee of any article of tangible personal property which is entirely consumed in the course of research, development, experimental and testing activities conducted by the user, provided the acquisition or use of such articles by the bailor was not subject to the taxes imposed by chapter 82.08 RCW or chapter 82.12 RCW;

(15) In respect to the use by residents of this state of motor vehicles and trailers acquired and used while such persons are members of the armed services and are stationed outside this state pursuant to military orders, but this exemption shall not apply to members of the armed services called to active duty for training purposes for periods of less than six months and shall not apply to the use of motor vehicles or trailers acquired less than thirty days prior to the discharge or release from active duty of any person from the armed services;

(16) In respect to the use of semen in the artificial insemination of livestock;

(17) In respect to the use of form lumber by any person engaged in the constructing, repairing, decorating or improving of new or existing buildings or other structures under, upon or above real property of or for consumers: *Provided*, That such lumber is used or to be used first by such person for the molding of concrete in a single such contract, project or job and is thereafter incorporated into the product of that same contract, project or job as an ingredient or component thereof;

(18) In respect to the use of any sand, gravel, or rock to the extent of the cost of or charges made for labor and services performed in respect to the mining, sorting, crushing, screening, washing, hauling, and stockpiling such sand, gravel, or rock, when such sand, gravel, or rock is taken from a pit or quarry which is owned by or leased to a county or a city, and such sand, gravel, or rock is (1) either stockpiled in said pit or quarry for placement or is placed on the street, road, place, or highway of the county or city by the county or city itself, or (2) sold by the county or city to a county, or a city at actual cost for placement on a publicly owned street, road, place, or highway. The exemption provided for in this subsection shall not apply to the use of such material to the extent of the cost of or charge made for such labor and services, if the material is used for other than public road purposes or is sold otherwise than as provided for in this subsection.

(19) In respect to the use of wearing apparel only as a sample for display for the purpose of effecting sales of goods represented by such sample.

(20) In respect to the use of tangible personal property held for sale and displayed in single trade shows for a period not in excess of thirty days, the primary purpose of which is to promote the sale of products or services.

(21) In respect to the use of pollen.

(22) In respect to the use of the personal property of one political subdivision by another political subdivision directly or indirectly arising out of or resulting from the annexation or incorporation of any part of the territory of one political subdivision by another.

(23) In respect to the use of prescription drugs. The term "prescription drugs" shall include any medicine, drug, prescription lens, or other substance other than food for use in the diagnosis, cure, mitigation, treatment, or prevention of disease or other ailment in humans ordered by (a) the written prescription to a pharmacist by a practitioner authorized by law of this state or laws of another jurisdiction to issue prescriptions, or (b) upon an oral prescription of such practitioner which is reduced promptly to writing and filed by a duly licensed pharmacist, or (c) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist, or (d) physicians or optometrists by way of written directions and specifications for the preparation, grinding, and fabrication of lenses intended to aid or correct visual defects or anomalies of humans.

(24) In respect to the use of returnable containers for beverages and foods, including but not limited to soft drinks, milk, beer, and mixers.

(25) In respect to the use of insulin, prosthetic devices, and medically prescribed oxygen.

(26) In respect to the use of food products for human consumption.

"Food products" include cereals and cereal products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products.

"Food products" include milk and milk products, milk shakes, malted milks, and any other similar type beverages which are composed at least in part of milk or a milk product and which require the use of milk or a milk product in their preparation.

"Food products" include all fruit juices, vegetable juices, and other beverages except bottled water, spirituous, malt or vinous liquors or carbonated beverages, whether liquid or frozen.

"Food products" do not include medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

The exemption of "food products" provided for in this paragraph shall not apply: (a) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others, or (b) when the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though such products are sold on a "takeout" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer, or (c) when the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments. [Initiative Measure No. 345 § 2, approved November 8, 1977; 1975 1st ex.s. c 291 § 11; 1974 ex.s. c 185 § 2; 1971 ex.s. c 299 § 10; 1971 ex.s. c 11 § 2; 1970 ex.s. c 65 § 7; 1967 ex.s. c 149 § 23; 1965 ex.s. c 173 § 19; 1963 ex.s. c 28 § 4; 1963 c 76 § 1; 1961 c 293 § 10; 1961 c 15 § 82.12.030. Prior: 1959 ex.s. c 3 § 11; 1955 c 389 § 26; 1955 c 137 § 2; 1951 1st ex.s. c 9 § 4; 1949 c 228 § 8; 1945 c 249 § 6; 1943 c 156 § 9; 1941 c 178 § 9a; 1939 c 225 § 15; 1937 c 191 § 2; 1935 c 180 § 32; Rem. Supp. 1949 § 8370-32.]

Reviser's note: RCW 82.12.030 was amended three times during the 1977 first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

RCW 82.12.030 was also amended by Initiative Measure No. 345 § 2 (approved November 8, 1977) without reference to 1977 1st ex.s. c 166 § 7, 1977 1st ex.s. c 169 § 111, or 1977 1st ex.s. c 179 § 2.

Reviser's note: *(1) RCW 46.16.100 was repealed by 1975-'76 2nd ex.s. c 64 § 24.

(2) The "director of motor vehicles" redesignated the "director of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Effective date—Initiative Measure No. 345, approved November 8, 1977: See note following RCW 82.08.030.

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

Effective date—1974 ex.s. c 185: See note following RCW 82.08.030.

Effective dates—Severability—1971 ex.s. c 299: See notes following RCW 82.04.050.

Effective date—1971 ex.s. c 11: See note following RCW 82.08.030.

Nonresident members of armed forces, exemption from use tax on motor vehicle: RCW 46.16.480.

Chapter 82.16

PUBLIC UTILITY TAX

Sections

82.16.050 Deductions in computing tax.

82.16.050 Deductions in computing tax. In computing tax there may be deducted from the gross income the following items:

(1) Amounts derived by municipally owned or operated public service businesses, directly from taxes levied for the support or maintenance thereof: *Provided*, That this section shall not be construed to exempt service charges which are spread on the property tax rolls and collected as taxes;

(2) Amounts derived from the sale of commodities to persons in the same public service business as the seller, for resale as such within this state. This deduction is allowed only with respect to water distribution, light and power, gas distribution or other public service businesses which furnish water, electrical energy, gas or any other commodity in the performance of public service businesses;

(3) Amounts actually paid by a taxpayer to another person taxable under this chapter as the latter's portion of the consideration due for services furnished jointly by both, if the total amount has been credited to and appears in the gross income reported for tax by the former;

(4) The amount of cash discount actually taken by the purchaser or customer;

(5) The amount of credit losses actually sustained by taxpayers whose regular books of accounts are kept upon an accrual basis;

(6) Amounts derived from business which the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States;

(7) Amounts derived from the distribution of water through an irrigation system, for irrigation purposes;

(8) Amounts derived from the transportation of commodities from points of origin in this state to final destination outside this state, or from points of origin outside this state to final destination in this state, with respect to which the carrier grants to the shipper the privilege of stopping the shipment in transit at some point in this state for the purpose of storing, manufacturing, milling, or other processing, and thereafter forwards the same commodity, or its equivalent, in the same or converted form, under a through freight rate from point of origin to final destination; and amounts derived from the transportation of commodities from points of origin in the state to an export elevator, wharf, dock or ship side on tidewater or navigable tributaries thereto from which such commodities are forwarded, without intervening transportation, by vessel, in their original form, to interstate or foreign destinations: *Provided*, That no deduction will be allowed when the point of origin and the point of delivery to such an export elevator, wharf, dock, or ship side are located within the corporate limits of the same city or town;

(9) Amounts derived from the production, sale, or transfer of electrical energy for resale or consumption outside the state if the production or generation of such energy is subject to tax under the manufacturing classification of chapter 82.04 RCW: *Provided*, That the exemption set forth in RCW 82.04.310 shall not be applicable to the generation or production of the electrical energy so produced, sold, or transferred: *And provided further*, That no credit has been claimed as an offset to taxes imposed under RCW 82.04.240;

(10) Amounts derived from the distribution of water by a nonprofit water association and used for capital improvements by that nonprofit water association. [1977 1st ex.s. c 368 § 1; 1967 ex.s. c 149 § 25; 1965 ex.s. c 173 § 22; 1961 c 15 § 82.16.050. Prior: 1959 ex.s. c 3 § 18; 1949 c 228 § 11; 1937 c 227 § 12; 1935 c 180 § 40; Rem. Supp. 1949 § 8370-40.]

Chapter 82.24 TAX ON CIGARETTES

Sections

82.24.220 Vending machines—Certificates.

82.24.220 Vending machines—Certificates. Every person in this state who by means of a vending machine sells any of the articles taxed herein shall be required before engaging in such business to apply to and obtain from the department of revenue a certificate to engage in business as a retailer. Any articles taxed herein vended by means of any such machine shall bear stamps as evidence that the tax herein imposed has been paid and the articles taxed herein contained in such machines shall be available for inspection by the department or its duly authorized agents at all times. [1977 1st ex.s. c 319 § 8; 1975 1st ex.s. c 278 § 69; 1961 c 15 § 82.24.220. Prior: 1941 c 178 § 18; 1935 c 180 § 93; Rem. Supp. 1941 § 8370-93.]

Severability—Effective date—Purpose—1977 1st ex.s. c 319: See RCW 19.02.010, 19.02.900 and 19.02.910.

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 82.36 MOTOR VEHICLE FUEL TAX

Sections

82.36.010 Definitions.
82.36.020 Tax imposed—Rate to be computed—Allocation of proceeds.
82.36.025 Computation of motor vehicle fuel tax rate—Department of motor vehicles determination—When—Limitations—Factors—Notice of unanticipated federal funds.
82.36.040 Payment of tax—Penalty for delinquency.
82.36.100 Tax required of persons not classed as distributors—Duties—Procedure—Distribution of proceeds—Penalties.
82.36.270 Refund permit.

82.36.010 Definitions. For the purposes of this chapter:

(1) "Motor vehicle" means every vehicle which is in itself a self-propelled unit, equipped with solid rubber, hollow-cushion rubber, or pneumatic rubber tires and capable of being moved or operated upon a public highway, except motor vehicles used as motive power for or in conjunction with farm implements and machines or implements of husbandry;

(2) "Motor vehicle fuel" means gasoline or any other inflammable gas, or liquid, by whatsoever name such gasoline, gas or liquid may be known or sold, the chief use of which is as fuel for the propulsion of motor vehicles or motorboats;

(3) "Distributor" means every person who refines, manufactures, produces, or compounds motor vehicle fuel and sells, distributes, or in any manner uses it in this state; also every person engaged in business as a bona fide wholesale merchant dealing in motor vehicle fuel who either acquires it within the state from any person refining it within or importing it into the state, on which the tax has not been paid, or imports it into this

state and sells, distributes, or in any manner uses it in this state;

(4) "Service station" means a place operated for the purpose of delivering motor vehicle fuel into the fuel tanks of motor vehicles;

(5) "Department" means the department of motor vehicles;

(6) "Director" means the director of motor vehicles;

(7) "Dealer" means any person engaged in the retail sale of liquid motor vehicle fuels;

(8) "Person" means every natural person, firm, partnership, association, or private or public corporation;

(9) "Highway" means every way or place open to the use of the public, as a matter of right, for purposes of vehicular travel;

(10) "Broker" means every person, other than a distributor, engaged in business as a broker, jobber, or wholesale merchant dealing in motor vehicle fuel or other petroleum products used or usable in propelling motor vehicles, or in other petroleum products which may be used in blending, compounding, or manufacturing of motor vehicle fuel;

(11) "Producer" means every person, other than a distributor, engaged in the business of producing motor vehicle fuel or other petroleum products used in, or which may be used in, the blending, compounding, or manufacturing of motor vehicle fuel;

(12) "Distribution" means all withdrawals of motor vehicle fuel for delivery to others, to retail service stations, or to unlicensed bulk storage plants;

(13) "Bulk storage plant" means, pursuant to the licensing provisions of RCW 82.36.070, any plant, under the control of the distributor, used for the storage of motor vehicle fuel to which no retail outlets are directly connected by pipe lines;

(14) "Marine fuel dealer" means any person engaged in the retail sale of liquid motor vehicle fuel whose place of business and or sale outlet is located upon a navigable waterway;

(15) "Weighted average retail sales price of motor vehicle fuel" means the average retail sales price excluding any federal excise tax of the several grades of motor vehicle fuel (other than special fuels taxed pursuant to chapter 82.38 RCW) sold by service stations throughout the state (less any state excise taxes on the sale, distribution, or use thereof) weighted to reflect the quantities sold at each different price;

(16) "Aggregate motor vehicle fuel tax revenues" means the amount of excise taxes to be paid by distributors, retailers, and users pursuant to chapters 82.36, 82.37, and 82.38 RCW, as now or hereafter amended, for any designated fiscal period, whether or not such amounts are actually received by the department of motor vehicles. The phrase does not include fines or penalties assessed for violations;

(17) "Fiscal half-year" means a six month period ending June 30th or December 31st. [1977 1st ex.s. c 317 § 1; 1971 ex.s. c 156 § 1; 1967 c 153 § 1; 1965 ex.s. c 79 § 1; 1961 c 15 § 82.36.010. Prior: 1939 c 177 § 1; 1933 c 58 § 1; RRS § 8327-1; prior: 1921 c 173 § 1.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" and "director of motor vehicles" redesignated "director of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Effective dates—1977 1st ex.s. c 317: "This 1977 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, 1977, except for section 9, which shall take effect on September 1, 1977." [1977 1st ex.s. c 317 § 24.] For sections becoming effective July 1, 1977, see the following note, except that amendments to RCW 46.68.100 take effect September 1, 1977.

Severability—1977 1st ex.s. c 317: "If any provision of this 1977 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." [1977 1st ex.s. c 317 § 23.] This applies to the amendments to RCW 35.77.010, 46.68.090, 46.68.100, 46.68.150, 47.26.040, 47.26.080, 47.26.180, 47.26.190, 47.26.240, 47.26.270, 47.26.405, 47.26.420, 47.26.424, 47.26.425, 82.36.010, 82.36.020, 82.36.100, 82.37.030, 82.38.030 and to RCW 46.68.115, 47.26.4251, and 82.36.025.

82.36.020 Tax imposed—Rate to be computed—Allocation of proceeds. Every distributor shall pay, in addition to any other taxes provided by law, an excise tax to the director at a rate computed in the manner provided in RCW 82.36.025 for each gallon of motor vehicle fuel sold, distributed, or used by him in the state as well as on each gallon upon which he has assumed liability for payment of the tax under the provisions of RCW 82.36.100: *Provided*, That under such regulations as the director may prescribe sales or distribution of motor vehicle fuel may be made by one licensed distributor to another licensed distributor free of the tax. In the computation of the tax, one-quarter of one percent of the net gallonage otherwise taxable shall be deducted by the distributor before computing the tax due, on account of the losses sustained through handling. Any person paying such excise tax who, in turn, sells or distributes such fuel to another, whether or not for use, shall include the tax as part of the selling price of the fuel. Any person thereafter paying a price for such fuel which includes an increment for the tax imposed hereunder, and who subsequently resells said fuel, shall include the increment so paid as part of the selling price of the fuel. The tax imposed hereunder shall be in addition to any other tax required by law, and shall not be imposed under circumstances in which the tax is prohibited by the Constitution or laws of the United States. The tax herein imposed shall be collected and paid to the state but once in respect to any motor vehicle fuel. An invoice shall be rendered by a distributor to a purchaser for each distribution of motor vehicle fuel.

The proceeds of the motor vehicle fuel excise tax collected on the net gallonage after the deduction provided for herein and after the deductions for refunds and costs of collection as provided in RCW 46.68.090 as now or hereafter amended, shall be distributed as provided in RCW 46.68.100, as now or hereafter amended. [1977 1st ex.s. c 317 § 2; 1974 ex.s. c 28 § 1. Prior: 1973 1st ex.s. c 160 § 1; 1973 1st ex.s. c 124 § 2; 1972 ex.s. c 24 § 1; 1970 ex.s. c 85 § 3; 1967 ex.s. c 145 § 75; 1967 ex.s. c 83 § 2; 1965 ex.s. c 79 § 2; 1963 c 113 § 1; 1961 ex.s. c 7 § 1; 1961 c 15 § 82.36.020; prior: 1957 c 247 § 1; 1955 c 207 § 1; 1951 c 269 § 43; 1949 c 220 § 7; 1939 c

177 § 2; 1933 c 58 § 5; Rem. Supp. 1949 § 8327-5; prior: 1931 c 140 § 2; 1923 c 81 § 1; 1921 c 173 § 2.]

Effective dates—Severability—1977 1st ex.s. c 317: See notes following RCW 82.36.010.

Effective date—1970 ex.s. c 85: See note following RCW 47.60.500.

Disbursal and release of funds: "All funds heretofore accumulated and undistributed to any city and town by reason of the matching requirements of the 1961 amendatory provisions in RCW 82.36.020 and 82.40.290 shall be immediately disbursed and released for use in accordance with the 1967 amendatory provisions of RCW 82.36.020 and 82.40.290.

This section 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." [1967 ex.s. c 83 § 63.]

Effective date—1967 ex.s. c 83: See RCW 47.26.910.

Severability—1967 ex.s. c 83: See RCW 47.26.900.

82.36.025 Computation of motor vehicle fuel tax rate—Department of motor vehicles determination—When—Limitations—Factors—Notice of unanticipated federal funds. (1) (a) During the fifth month of each fiscal half-year ending June 30th and December 31st of each year, the department of motor vehicles shall compute a motor vehicle fuel tax rate to the nearest one-half cent per gallon of motor vehicle fuel by multiplying twenty-one and one-half percent times the weighted average retail sales price of motor vehicle fuel, per gallon, sold within the state in the third month of such fiscal half-year. The department of motor vehicles shall determine the weighted average retail sales price of motor vehicle fuel by state-wide sampling and survey techniques designed to reflect such prices for the third month of such fiscal half-year. The department shall establish reasonable guidelines for its sampling and survey methods.

(b) Subject to provisions of subsections (2) and (3) of this section the excise tax rate computed in the manner provided in subsection (1) of this section shall apply to the sale, distribution, or use of motor vehicle fuel beginning the fiscal half-year following computation of the rate and shall remain in effect for each succeeding fiscal half-year until a subsequent computation requires a change in the rate. For the first fiscal half-year after July 1, 1977, the motor vehicle fuel tax shall be eleven cents per gallon.

(2) (a) The motor vehicle fuel tax rate for any fiscal half-year shall not exceed twelve cents per gallon nor exceed a rate as computed in this subsection.

(b) Each fiscal half-year at the time the department of motor vehicles computes the excise tax rate for the ensuing fiscal half-year of a biennium, the department shall estimate the total aggregate motor vehicle fuel tax revenues and the total of all other state revenues which will accrue to the motor vehicle fund during the full biennium. The estimated total aggregate motor vehicle fuel tax revenues for the biennium shall include those revenues which have accrued to the motor vehicle fund for the half-year or half-years of the biennium that have then elapsed plus revenues which the department determines will accrue during the remaining fiscal half-years of the biennium, assuming the sale, distribution, and use of motor vehicle fuel and special fuel within the

state for the remaining fiscal half-years of the biennium shall be at the same volume as during the fiscal half-year last ended, adjusted however for the historic variations in sales, distribution, and use according to half-yearly periods and for projected trends, and at the weighted average retail sales price of motor vehicle fuel as last determined by the department of motor vehicles. The estimated total of all other state revenues to accrue to the motor vehicle fund during the biennium shall include those revenues (other than the aggregate motor vehicle fuel tax revenues) which have accrued to the motor vehicle fund for the half-year or half-years of the biennium that have then elapsed plus revenues which the department of highways with the concurrence of the office of program planning and fiscal management determines will accrue during the remaining fiscal half-years of the biennium, assuming that collections of such revenues for the remaining fiscal half-years of the biennium shall be at the same level as during the fiscal half-year just ended, adjusted however for historic variations in collections according to half-yearly periods and for projected trends, and shall include state revenues in the motor vehicle fund balance as of the end of the prior biennium as certified by the state treasurer, less an appropriate minimum balance for the biennium as determined by the department of highways with the concurrence of the office of program planning and fiscal management and the proceeds of the sale of bonds but shall not include reimbursements to the motor vehicle fund for services performed by the department of highways for others.

(c) If the estimated biennial aggregate motor vehicle fuel tax revenues as computed in paragraph (b) of this subsection, exceed the total of all appropriations, reappropriations, and transfers of state revenues from the motor vehicle fund for the biennium (less the estimated total of all other state revenues which will accrue to the motor vehicle fund during the biennium as computed in paragraph (b) of this subsection) by more than five percent thereof, the rate of the motor vehicle fuel tax (computed as provided in subsection (1) of this section) shall be reduced by one-half cent increments, commencing at the beginning of the ensuing fiscal half-year, as may be necessary to reduce such estimated total revenues for the full biennium to within the total of such appropriations, reappropriations, and transfers plus five percent thereof.

(3) (a) Notwithstanding any other provisions of this section the excise tax rate for any fiscal half-year shall not be less than nine cents per gallon nor less than the rate as computed in this subsection.

(b) Each fiscal half-year at the time the department of motor vehicles computes the excise tax rate for the ensuing fiscal half-year of a fiscal year, the department shall estimate the total aggregate motor vehicle fuel tax revenues which will accrue to the motor vehicle fund during such fiscal year in the same manner that such revenues are estimated for a full biennium. If such estimated aggregate motor vehicle fuel tax revenues for the fiscal year are less than an amount equal to the aggregate motor vehicle fuel tax revenues collected during the

fiscal year ending June 30, 1973, increased by six percent per year compounded annually for each year which has elapsed from June 30, 1973, to June 30th of the fiscal year for which estimated aggregate motor vehicle fuel tax revenues were computed, the department shall increase the rate of the excise tax by one-half cent increments, but not to exceed a total excise tax of twelve cents per gallon, commencing at the beginning of the ensuing fiscal half-year as necessary to produce estimated aggregate motor vehicle fuel tax revenues for such fiscal year as great as such revenues collected during the 1973 fiscal year increased by six percent per year compounded annually from June 30, 1973, to June 30th of the fiscal year for which such minimum half-yearly tax rate is being computed.

(4) (a) Except as otherwise provided in paragraph (b) of this subsection, if the department of highways receives notification that unanticipated federal funds in excess of one million dollars above appropriations of federal funds from the motor vehicle fund for a biennium will be received for expenditure during that biennium, the highway commission shall give notice of the amount of such unanticipated funds to the department of motor vehicles which shall include such amount in the computation of the estimated total of all other state revenues to accrue during the biennium under paragraph (b) of subsection (2) of this section for purposes of computing the maximum rate of motor vehicle fuel tax as provided in this section.

(b) Upon receipt by the department of highways of notification that unanticipated federal funds in excess of one million dollars above appropriations of federal funds from the motor vehicle fund for a biennium will be received for expenditure during that biennium, if the highway commission determines that such funds or any part thereof may not legally or operationally be substituted for purposes for which state motor vehicle fund moneys have been appropriated, or determines that substitution of such federal funds for state funds would delay the construction of needed highway improvements, the highway commission shall forthwith notify the governor and the standing committees on transportation of the house and senate of its determination. If both the governor and the standing committees concur in the commission's determination, the unanticipated federal funds shall not be considered by the department of motor vehicles in computing the estimated total of all other state revenues to accrue during the biennium under paragraph (b) of subsection (2) of this section. [1977 1st ex.s. c 317 § 6.]

Reviser's note: (1) The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

(2) "office of program planning and fiscal management" redesignated as "office of financial management" by 1977 1st ex.s. c 114. See RCW 43.41.035.

(3) Powers, duties, and functions of highway commission transferred to department of transportation by 1977 1st ex.s. c 151. See RCW 47.01.031.

Effective dates—Severability—1977 1st ex.s. c 317: See notes following RCW 82.36.010.

82.36.040 Payment of tax—Penalty for delinquency. The amount of excise tax for each month shall

be paid to the director on or before the twenty-fifth day of the next month thereafter, and if not paid prior thereto, shall become delinquent at the close of business on that day, and a penalty of one percent of such excise tax must be added thereto for delinquency: *Provided*, That in no case shall the penalty be more than five hundred dollars. If such tax and penalty is not received on or before the close of business on the last day of the month in which the payment is due an additional penalty of ten percent must be added thereto in addition to penalty above provided for.

Any motor vehicle fuel tax, penalties, and interest payable under the provisions of this chapter shall bear interest at the rate of one-half of one percent per month, or fraction thereof, from the first day of the calendar month after the close of the monthly period for which the amount or any portion thereof should have been paid until the date of payment: *Provided*, That the interest charge on the unpaid excise tax shall be waived when such interest is less than five dollars: *And provided further*, That the department may waive the interest on the unpaid excise tax when the interest exceeds five dollars and the department determines that the cost of processing the collection of the interest exceeds the amount of interest due.

In any suit brought to enforce the rights of the state hereunder, the certificate of the director showing the amount of taxes, penalties, interest and cost unpaid by any distributor and that the same are due and unpaid to the state shall be prima facie evidence of the facts as shown. [1977 c 28 § 1; 1961 c 15 § 82.36.040. Prior: 1957 c 247 § 3; 1955 c 207 § 3; prior: 1953 c 151 § 1; 1943 c 84 § 2, part; 1933 c 58 § 8, part; Rem. Supp. 1943 § 8327-8, part; prior: 1923 c 81 § 3, part; 1921 c 173 § 5, part.]

82.36.100 Tax required of persons not classed as distributors—Duties—Procedure—Distribution of proceeds—Penalties. Every person other than a distributor who acquires any motor vehicle fuel within this state upon which payment of tax is required under the provisions of this chapter, or imports such motor vehicle fuel into this state and sells, distributes, or in any manner uses it in this state shall, if the tax has not been paid, apply for a license to carry on such activities, file bond, make reports, comply with all regulations the director may prescribe in respect thereto, and pay an excise tax at the rate computed in the manner provided in RCW 82.36.025 for each gallon thereof so sold, distributed, or used during the fiscal half-year for which such rate is applicable in the manner provided for distributors, and the director shall issue a license to such person in the manner provided for issuance of licenses to distributors. The proceeds of the tax imposed by this section shall be distributed in the manner provided for the distribution of the motor vehicle fuel excise tax in RCW 82.36.020 as now or hereafter amended. However, a distributor licensed under the provisions of this chapter may deliver motor vehicle fuel to an importer in individual quantities of five hundred gallons or less and assume the liability for payment of the tax to this state. Under such conditions, the importer shall be exempt from the

requirements of this section. For failure to comply with the terms of this chapter such person shall be subject to the same penalties imposed upon distributors. The director shall pursue against such persons the same procedure and remedies for audits, adjustments, collection, and enforcement of this chapter as is provided with respect to distributors. Nothing herein shall be construed as classifying such persons as distributors. [1977 1st ex.s. c 317 § 3; 1967 ex.s. c 83 § 3; 1961 ex.s. c 7 § 2; 1961 c 15 § 82.36.100. Prior: 1957 c 247 § 6; 1951 c 267 § 1; 1939 c 177 § 5; RRS § 8327-5a.]

Effective dates—Severability—1977 1st ex.s. c 317: See notes following RCW 82.36.010.

Effective dates—1967 ex.s. c 83: See RCW 47.26.910.

Severability—1967 ex.s. c 83: See RCW 47.26.900.

82.36.270 Refund permit. Any person desiring to claim a refund shall obtain a permit from the department by application therefor on such form as the department shall prescribe, which application shall contain, among other things, the name and address of the applicant, the nature of the business and a sufficient description for identification of the machines or equipment in which the motor vehicle fuel is to be used, for which refund may be claimed under the permit. The permit shall bear a permit number and all applications for refund shall bear the number of the permit under which it is claimed. The department shall keep a record of all permits issued and a cumulative record of the amount of refund claimed and paid thereunder. Such permit shall be obtained before or at the time that the first application for refund is made under the provisions of this chapter. [1977 c 28 § 2; 1973 c 96 § 3; 1967 c 153 § 4; 1961 c 15 § 82.36.270. Prior: 1957 c 218 § 3; prior: 1945 c 38 § 1, part; 1943 c 84 § 5, part; 1937 c 219 § 2, part; 1935 c 109 § 2, part; 1933 c 58 § 18, part; Rem. Supp. 1945 § 8327-18, part; prior: 1923 c 81 § 4, part.]

Chapter 82.37

MOTOR VEHICLE FUEL IMPORTER TAX ACT

Sections

82.37.030 Tax imposed—Rate to be computed.

82.37.030 Tax imposed—Rate to be computed. In consideration of the use of the public highways of this state, motor carriers who import motor vehicle fuel into the state of Washington in the fuel supply tank or tanks of commercial motor vehicles for use in propelling said vehicles on said highways shall be subject to a tax for such use of the highways as hereinafter provided. A tax at the rate computed in the manner provided in RCW 82.36.025 per gallon is hereby imposed upon every motor carrier measured and determined by the number of gallons of motor vehicle fuel so imported and actually used by such motor carrier in its operations within this state during the fiscal half-year for which such rate is applicable. [1977 1st ex.s. c 317 § 4; 1967 ex.s. c 83 § 4; 1963 ex.s. c 22 § 3.]

[1977 RCW Supp—page 792]

Effective dates—Severability—1977 1st ex.s. c 317: See notes following RCW 82.36.010.

Effective dates—1967 ex.s. c 83: See RCW 47.26.910.

Severability—1967 ex.s. c 83: See RCW 47.26.900.

Chapter 82.38

SPECIAL FUEL TAX ACT

Sections

82.38.030 Tax imposed—Variable rate to be computed—Collection.
 82.38.075 Natural gas, propane—Annual license fee in lieu of special fuel tax for use in motor vehicles—Schedule.
 82.38.110 Application for license—Bond—Requirements.
 82.38.130 Revocation, cancellation, and surrender of license and bond.
 82.38.170 Civil and statutory penalties.
 82.38.270 Violations and penalties.

82.38.030 Tax imposed—Variable rate to be computed—Collection. (1) There is hereby levied and imposed upon special fuel users a tax at the rate computed in the manner provided in RCW 82.36.025 per gallon or each one hundred cubic feet of compressed natural gas measured at standard pressure and temperature on the use (within the meaning of the word use as defined herein) of special fuel in any motor vehicle during the fiscal half-year for which such rate is applicable.

(2) Said tax shall be collected by the special fuel dealer and shall be paid over to the department as hereinafter provided: (a) With respect to all special fuel delivered by a special fuel dealer into supply tanks of motor vehicles or into storage facilities used for the fueling of motor vehicles at unbonded service stations in this state; or (b) in all other transactions where the purchaser indicates in writing to the special fuel dealer prior to or at the time of the delivery that the entire quantity of the special fuel covered by the delivery is for use by him for a taxable purpose as a fuel in a motor vehicle.

(3) Said tax shall be paid over to the department by the special fuel user as hereinafter provided: (a) With respect to special fuel upon which the tax has not previously been imposed which was acquired in any manner other than by delivery by a special fuel dealer into a fuel supply tank of a motor vehicle in this state; or (b) in all transactions with a special fuel dealer in this state where a written statement has not been furnished to the special fuel dealer as set forth in subsection (2)(b) of this section.

It is expressly provided that delivery of special fuel may be made without collecting the tax otherwise imposed, when such deliveries are made by a bonded special fuel dealer to special fuel users who are authorized by the department as hereinafter provided, to purchase fuel without payment of tax to the bonded special fuel dealer. [1977 1st ex.s. c 317 § 5; 1975 1st ex.s. c 62 § 1; 1973 1st ex.s. c 156 § 1; 1972 ex.s. c 135 § 2; 1971 ex.s. c 175 § 4.]

Effective dates—Severability—1977 1st ex.s. c 317: See notes following RCW 82.36.010.

82.38.075 Natural gas, propane—Annual license fee in lieu of special fuel tax for use in motor vehicles—Schedule. In order to encourage the use of non-polluting fuels, until July 1, 1979, an annual license fee in lieu of the tax imposed by RCW 82.38.030 shall be imposed upon the use of natural gas as defined in this chapter or on liquified petroleum gas, commonly called propane, which is used in any motor vehicle, as defined in RCW 46.04.320, in accordance with the following schedule:

VEHICLE TONNAGE (GVW)	FEE
0 – 6,000	\$ 60
6,001 – 10,000	\$ 70
10,001 – 18,000	\$ 80
18,001 – 28,000	\$110
28,001 – 36,000	\$150
36,001 and above	\$250

The department of motor vehicles, in addition to the foregoing fee, shall charge a further fee of five dollars as a handling charge for each license issued.

The director of the department of motor vehicles shall be authorized to prorate the vehicle tonnage fee so that the annual license required by this section will correspond with the staggered vehicle licensing system. [1977 1st ex.s. c 335 § 1.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Effective date—1977 1st ex.s. c 335: "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 July 1, 1977." [1977 1st ex.s. c 335 § 2.] This applies to RCW 82.38.075.

82.38.110 Application for license—Bond—Requirements. Application for a special fuel dealer's license, special fuel supplier's license or a special fuel user's license, shall be made to the department. The application shall be filed upon a form prepared and furnished by the department and shall contain such information as the department deems necessary.

No special fuel dealer's license or special fuel user's license shall be issued to any person or continued in force unless such person has furnished bond, as defined in RCW 82.38.020, in such form as the department may require, to secure his compliance with this chapter, and the payment of any and all taxes, interest and penalties due and to become due hereunder. The requirement of furnishing a bond shall be waived provided all acquisitions of special fuel by the licensee are on a tax paid or a tax exempt basis.

The total amount of the bond or bonds required of any special fuel dealer or special fuel user shall be equivalent to twice the estimated monthly fuel tax, determined in such manner as the department may deem proper: *Provided*, That the total amount of the bond or bonds shall never be less than five hundred dollars nor more than fifty thousand dollars: *Provided further*, That special fuel dealers or special fuel users whose license is suspended or revoked for cause, shall be required to furnish bond coverage equivalent to three times the estimated monthly fuel tax.

Any person who has filed with the department a bond as a motor vehicle fuel distributor under the terms and conditions provided for in RCW 82.36.060, may extend the terms and conditions of said distributor's bond, by an approved rider or bond form, to include coverage of all liabilities and conditions imposed by this chapter upon the special fuel dealer or to the special fuel user to whom said extension is made applicable. The amount of any new bond that may be required of a dealer or user shall not exceed the maximum amount provided by RCW 82.36.060 for a motor vehicle fuel distributor's license. [1977 c 26 § 1; 1973 1st ex.s. c 156 § 4; 1971 ex.s. c 175 § 12.]

82.38.130 Revocation, cancellation, and surrender of license and bond. The department may revoke the license of any special fuel dealer, special fuel supplier, or special fuel user for reasonable cause. Before revoking such license the department shall notify the licensee to show cause within twenty days of the date of the notice why the license should not be revoked: *Provided*, That at any time prior to and pending such hearing the department may, in the exercise of reasonable discretion, suspend such license.

The department shall cancel any license to act as a special fuel dealer, a special fuel supplier, or a special fuel user immediately upon surrender thereof by the holder.

It shall be presumed that a special fuel dealer's bond is in effect until such time as the department notifies all licensed special fuel suppliers to the contrary by mailing to their current address of record.

Any surety on a bond furnished by a special fuel dealer or special fuel user as provided herein shall be released and discharged from any and all liability to the state accruing on such bond after the expiration of forty-five days from the date which such surety shall have lodged with the department a written request to be released and discharged, but this provision shall not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration of the forty-five day period. The department shall promptly, upon receiving any such request, notify the special fuel dealer or special fuel user who furnished the bond, and unless the special fuel dealer or special fuel user shall, on or before the expiration of the forty-five day period, file a new bond, in accordance with the requirements of this section, or make a deposit in lieu thereof as provided in subsection (12) of RCW 82.38.020, the department forthwith shall cancel the special fuel dealer's or special fuel user's license.

The department may require a special fuel dealer or special fuel user to give a new or additional surety bond or to deposit additional securities of the character specified in subsection (12) of RCW 82.38.020 if, in its opinion, the security of the surety bond therefor filed by such special fuel dealer or special fuel user, or the market value of the properties deposited as security by such special fuel dealer or special fuel user, shall become impaired or inadequate. Upon failure of the special fuel dealer or special fuel user to give such new or additional

surety bond or to deposit additional securities within forty-five days after being requested to do so by the department, or after he shall fail or refuse to file reports and remit or pay taxes at the intervals fixed by the department, the department forthwith shall cancel his license. [1977 c 26 § 2; 1971 ex.s. c 175 § 14.]

82.38.170 Civil and statutory penalties. (1) If any special fuel dealer or special fuel user fails to pay any taxes collected or due the state of Washington by said dealer or user within the time prescribed by RCW 82.38.150, said dealer or user shall pay in addition to such tax a penalty of ten percent of the amount thereof plus interest at the rate of one percent per month, or fraction thereof, from the date such tax was due until paid.

(2) If it be determined by the department that the tax reported by any special fuel dealer or special fuel user is deficient it shall proceed to assess the deficiency on the basis of information available to it and there shall be added to this deficiency a penalty of ten percent of the amount of the deficiency together with interest at the rate of one percent per month, or fraction thereof, from the date the report was due until paid: *Provided*, That the interest charge on the unpaid excise tax shall be waived when such interest is less than five dollars: *And provided further*, That the department may waive the interest on the unpaid excise tax when the interest exceeds five dollars and the department of motor vehicles determines that the cost of processing the collection of the interest exceeds the amount of interest due.

(3) If any special fuel dealer or special fuel user, whether or not he is licensed as such, fails, neglects, or refuses to file a special fuel tax report, the department shall, on the basis of information available to it, determine the tax liability of the special fuel dealer or the special fuel user for the period during which no report was filed, and to the tax as thus determined, the department shall add the penalty and interest provided in subsection (2) of this section. An assessment made by the department pursuant to this subsection or to subsection (2) of this section shall be presumed to be correct, and in any case where the validity of the assessment is drawn in question, the burden shall be on the person who challenges the assessment to establish by a fair preponderance of the evidence that it is erroneous or excessive as the case may be.

(4) If any special fuel dealer or special fuel user shall establish by a fair preponderance of evidence that his failure to file a report or pay the proper amount of tax within the time prescribed was due to reasonable cause and was not intentional or wilful, the department may waive the penalty prescribed in subsections (1), (2), and (3) of this section.

(5) If any special fuel dealer or special fuel user shall file a false or fraudulent report with intent to evade the tax imposed by this chapter, there shall be added to the amount of deficiency determined by the department a penalty equal to twenty-five percent of the deficiency together with interest at one percent per month, or fraction thereof, on such deficiency from the date such tax

was due to the date of payment, in addition to the penalty provided in subsection (2) of this section and all other penalties prescribed by law: *Provided*, That the interest charge on the unpaid excise tax shall be waived when such interest is less than five dollars: *And provided further*, That the director may waive the interest on the unpaid excise tax when the interest exceeds five dollars and the department of motor vehicles determines that the cost of processing the collection of the interest exceeds the amount of interest due.

(6) Except in the case of a fraudulent report or of neglect or refusal to make a report, every deficiency shall be assessed under subsection (2) of this section within three years from the twenty-fifth day of the next succeeding calendar month following the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later.

(7) Any special fuel dealer or special fuel user against whom an assessment is made under the provisions of subsections (2) or (3) of this section may petition for a reassessment thereof within thirty days after service upon the special fuel dealer or special fuel user of notice thereof. If such petition is not filed within such thirty day period, the amount of the assessment becomes final at the expiration thereof.

If a petition for reassessment is filed within the thirty day period, the department shall reconsider the assessment and, if the special fuel dealer or special fuel user has so requested in his petition, shall grant such special fuel dealer or special fuel user an oral hearing and give the special fuel dealer or special fuel user ten days' notice of the time and place thereof. The department may continue the hearing from time to time. The decision of the department upon a petition for reassessment shall become final thirty days after service upon the special fuel dealer or special fuel user of notice thereof.

Every assessment made by the department shall become due and payable at the time it becomes final and if not paid to the department when due and payable, there shall be added thereto a penalty of ten percent of the amount of the tax.

(8) Any notice of assessment required by this section shall be served personally or by mail; if by mail, service shall be made by depositing such notice in the United States mail, postage prepaid addressed to the special fuel dealer or special fuel user at his address as the same appears in the records of the department.

(9) Any licensee who has had their special fuel user [license], special fuel dealer [license], special fuel supplier [license], or combination thereof revoked shall pay a one hundred dollar penalty prior to the issuance of a new license. [1977 c 26 § 3; 1973 1st ex.s. c 156 § 7; 1972 ex.s. c 138 § 3; 1971 ex.s. c 175 § 18.]

Reviser's note: The "department of motor vehicles" redesignated the "department of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Effective date—1972 ex.s. c 138: See note following RCW 82.36.280.

82.38.270 Violations and penalties. It shall be unlawful for any person to:

(1) Refuse, or knowingly and intentionally fail to make and file any statement required by this chapter in the manner or within the time required;

(2) Knowingly and with intent to evade or to aid in the evasion of the tax imposed herein to make any false statement or conceal any material fact in any record, return, or affidavit provided for in this chapter;

(3) Conduct any activities requiring a license under this chapter without a license or after a license has been suspended, surrendered, canceled, or revoked;

(4) Fail to keep and maintain the books and records required by this chapter.

Except as otherwise provided by law, any person violating any of the provisions of this chapter shall be guilty of a gross misdemeanor and shall, upon conviction thereof, be sentenced to pay a fine of not less than five hundred dollars nor more than one thousand dollars and costs of prosecution, or imprisonment for not more than one year, or both.

The fine and imprisonment provided for in this section shall be in addition to any other penalty imposed by any other provision of this chapter. [1977 c 26 § 4; 1971 ex.s. c 175 § 28.]

Chapter 82.44

MOTOR VEHICLE EXCISE

Sections

82.44.020 Basic tax imposed—Additional tax imposed.
82.44.110 Disposition of revenue.

82.44.020 Basic tax imposed—Additional tax imposed. (1) An excise tax is imposed for the privilege of using in the state any motor vehicle, except those operated under dealer's licenses. The annual amount of such excise shall be two percent of the fair market value of such vehicle.

(2) From and after August 1, 1978 and until August 1, 2008, an additional excise tax is imposed, in addition to any other tax imposed by this section, for the privilege of using in the state any such motor vehicle, and the annual amount of such additional excise shall be two-tenths of one percent of the fair market value of such vehicle.

(3) The department of motor vehicles and county auditors shall collect the additional tax imposed by subsection (2) of this section for any registration year for the months of that registration year in which such additional tax is effective, and in the same manner and at the same time as the tax imposed by subsection (1) of this section.

(4) In no case shall the total tax be less than two dollars. [1977 1st ex.s. c 332 § 1; 1963 c 199 § 2; 1961 c 15 § 82.44.020. Prior: 1959 ex.s. c 3 § 19; 1957 c 261 § 10; 1943 c 144 § 2; Rem. Supp. 1943 § 6312-116; prior: 1937 c 228 § 2, part.]

Effective date—1977 1st ex.s. c 332: "This 1977 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, 1977." [1977 1st ex.s. c 332 § 4.]

Severability—1977 1st ex.s. c 332: "If any provision of this 1977 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." [1977 1st ex.s. c 332 § 3.]

The foregoing annotations apply to the amendments to RCW 82.44-.020 and 82.44.110 by 1977 1st ex.s. c 332.

Effective date—1963 c 199: The effective date of the above amendment was January 1, 1964.

82.44.110 Disposition of revenue. The county auditor shall regularly, when remitting license fee receipts, pay over and account to the director of motor vehicles for the excise taxes collected under the provisions of this chapter. The director shall forthwith transmit the excise taxes to the state treasurer, ninety-eight percent of which excise tax revenue shall upon receipt thereof be credited by the state treasurer to the general fund, and two percent of which excise tax revenue shall be credited by the state treasurer to the motor vehicle fund to defray administrative and other expenses incurred by the state department of motor vehicles in the collection of the excise tax: *Provided*, That one hundred percent of the proceeds of the additional two-tenths of one percent excise tax imposed by RCW 82.44.020, as now or hereafter amended, shall be credited by the state treasurer to the Puget Sound capital construction account in the motor vehicle fund. [1977 1st ex.s. c 332 § 2; 1974 ex.s. c 54 § 3; 1967 c 121 § 1; 1961 c 15 § 82.44.110. Prior: 1957 c 128 § 1; 1955 c 259 § 6; 1943 c 144 § 10; Rem. Supp. 1943 § 6312-124; prior: 1937 c 228 § 9.]

Effective date—Severability—1977 1st ex.s. c 332: See notes following RCW 82.44.020.

Severability—Construction—Transitional sections—Effective dates—1974 ex.s. c 54: See notes following RCW 82.44.070.

Chapter 82.50

MOBILE HOMES, TRAVEL TRAILERS AND CAMPERS EXCISE

Sections

82.50.010 Definitions.
82.50.902 Repealed.

82.50.010 Definitions. "Mobile home" means a structure, transportable in one or more sections, which is thirty-two body feet or more in length and is eight body feet or more in width, and which is built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein, except as hereinafter specifically excluded, and excluding modular homes as defined below.

"Travel trailer" means all trailers of the type designed to be used upon the public streets and highways which are capable of being used as facilities for human habitation and which are less than thirty-two body feet in length and eight body feet or less in width, except as may be hereinafter specifically excluded.

"Modular home" means any factory-built housing designed primarily for residential occupancy by human

beings which does not contain a permanent frame and must be mounted on a permanent foundation.

"Camper" means a structure designed to be mounted upon a motor vehicle which provides facilities for human habitation or for temporary outdoor or recreational lodging and which is five feet or more in overall length and five feet or more in height from its floor to its ceiling when fully extended, but shall not include motor homes as defined in this section.

"Motor homes" means motor vehicles originally designed, reconstructed, or permanently altered to provide facilities for human habitation.

"Commission" means the department of revenue of the state.

"Director" means the director of motor vehicles of the state. [1977 1st ex.s. c 22 § 6; 1971 ex.s. c 299 § 35; 1967 ex.s. c 149 § 44; 1961 c 15 § 82.50.010. Prior: 1957 c 269 § 1; 1955 c 139 § 1.]

Reviser's note: The "director of motor vehicles" redesignated the "director of licensing" by 1977 1st ex.s. c 334. See RCW 46.01.020.

Severability—1977 1st ex.s. c 22: See note following RCW 46.04.302.

Effective date—1971 ex.s. c 299: See RCW 82.50.901.

Severability—1971 ex.s. c 299: See note following RCW 82.04.050.

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

Title 84 PROPERTY TAXES

Chapters

- 84.08 General powers and duties of department of revenue.
- 84.33 Timber and forest lands.
- 84.36 Exemptions.
- 84.40 Listing of property.
- 84.48 Equalization of assessments.
- 84.52 Levy of taxes.
- 84.60 Lien of taxes.
- 84.70 Destroyed property—Abatement or refund.

Chapter 84.08

GENERAL POWERS AND DUTIES OF DEPARTMENT OF REVENUE

Sections

- 84.08.090 Repealed.
- 84.08.100 Repealed.
- 84.08.130 Appeals from county board of equalization to board of tax appeals.

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

84.08.100 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this Volume.

84.08.130 Appeals from county board of equalization to board of tax appeals. Any taxpayer or taxing unit feeling aggrieved by the action of any county board of equalization may appeal to the board of tax appeals by filing with the county auditor a notice of appeal in duplicate within thirty days after the action of such board of equalization, which notice shall specify the actions complained of, and said auditor shall forthwith transmit one of said notices to the board of tax appeals; and in like manner any county assessor may appeal to the board of tax appeals from any action of any county board of equalization. The board of tax appeals shall require the board appealed from to certify the minutes of its proceedings resulting in such action and all evidence taken in connection therewith, and may receive further evidence, and shall make such order as in its judgment is just and proper. [1977 1st ex.s. c 290 § 1; 1975 1st ex.s. c 278 § 156; 1961 c 15 § 84.08.130. Prior: 1939 c 206 § 6; 1927 c 280 § 6; 1925 c 18 § 6; RRS § 11092.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 84.33

TIMBER AND FOREST LANDS

Sections

- 84.33.060 Calculation and fixing of dollar rates for regular and excess levies.
- 84.33.080 Schedule of value of timber on timber roll, aggregate dollar rates and "timber factor"—Schedule of value of timber harvested, aggregate dollar rates and "harvest factor"—Transfers between timber tax accounts—Payments and distributions.

84.33.060 Calculation and fixing of dollar rates for regular and excess levies. In each year commencing with 1972 and ending with 1981, solely for the purpose of determining, calculating and fixing, pursuant to chapter 84.52 RCW, the dollar rates for all regular and excess levies for the state and each timber county and taxing district lying wholly or partially in such county within which there was timber on January 1 of such year, the assessor of such timber county shall, for each such district, add to the amount of the "assessed valuation of the property" of all property other than timber the product of:

(a) The portion indicated below for each year of the value of timber therein as shown on the timber roll prepared in accordance with RCW 84.33.050 for such year; and

(b) The assessment ratio applied generally by such assessor in computing the assessed value of other property in his county:

Year	Portion of Timber Roll
1972 through 1977	100%
1978	80%
1979	60%
1980	40%
1981	20%
1982 and thereafter	None

[1977 1st ex.s. c 347 § 2; 1973 1st ex.s. c 195 § 91; 1971 ex.s. c 294 § 6.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

84.33.080 Schedule of value of timber on timber roll, aggregate dollar rates and "timber factor"—Schedule of value of timber harvested, aggregate dollar rates and "harvest factor"—Transfers between timber tax accounts—Payments and distributions. (1) On or before December 15 of each year commencing with 1972 and ending with 1981, the assessor of each timber county shall deliver to the treasurer of such county and to the department of revenue a schedule setting forth for each taxing district or portion thereof lying within such county:

(a) The value of timber as shown on the timber roll for such year;

(b) The aggregate dollar rate calculated pursuant to RCW 84.33.060 and actually utilized the immediately preceding October in extending real property taxes upon the tax rolls for collection in the following year;

(c) A "timber factor" which is the product of such aggregate dollar rate, the assessment ratio applied generally by such assessor in computing the assessed value of other property in his county and the appropriate portion listed below of the timber roll for such year ((a) above):

Year	Portion of Timber Roll
1972	25%
1973	55%
1974 through 1977	100%
1978	80%
1979	60%
1980	40%
1981	20%

On or before December 31 of each year commencing with 1972 and ending with 1981, the department of revenue shall determine the proportion that each taxing district's timber factor bears to the sum of the timber factors for all taxing districts in the state, and shall deliver a list to the assessor and the treasurer of each timber county and to the state treasurer showing the factor and proportion for each taxing district.

(2) On the twentieth day of the second month of each calendar quarter, commencing February 20, 1974 and ending November 20, 1982, the state treasurer shall pay to the treasurer of each timber county for the account of each taxing district such district's proportion and pay into the state general fund for the support of the common schools the state's proportion (determined in December of the preceding year pursuant to subsection (1) of this section) of the amount in state timber tax account A collected upon timber harvested in the preceding calendar quarter, but in no event shall any such quarterly payment to a taxing district, when added to such payments made to such district the previous quarters of the same year, exceed, respectively one-fourth, one-half, three-fourths, or the full amount of the timber

factor for such district determined in December of the preceding year.

The balance in state timber tax account A, if any, on the twentieth day of the second month of each calendar quarter commencing February 20, 1975 and ending November 20, 1982 shall be transferred to the state timber tax reserve account.

(3) If the balance in state timber tax account A immediately prior to such twentieth day of the second month of each calendar quarter is not sufficient to permit a payment of one-fourth, one-half, three-fourths, or the full amount, as the case may be, which, when added to the payments made to any taxing district the previous quarters of the same year, will equal the timber factor for such district determined in December of the preceding year, the necessary additional amount shall be transferred from the state timber tax reserve account to state timber tax account A.

(4) If, after the transfer, if any, from the state timber tax account A (pursuant to subsection (2) of this section) in August of any year commencing with 1974, the balance in the state timber reserve account exceeds two million dollars, the amount of the excess shall be applied first, subject to legislative appropriation of funds allocated from the state timber reserve account, for activities undertaken by the department of revenue forest tax division and for the activities undertaken by the department of natural resources relating to classification of lands as required by this chapter. If following the transfer, if any, from the state timber tax account A (pursuant to subsection (2) of this section) in November of 1977 and each year thereafter, the balance in the state timber tax reserve account exceeds two million dollars, the department of revenue shall determine on or before December 31 of such year, an amount to be distributed to the taxing districts the following calendar year, which distribution shall be determined in the following manner: *Provided*, That the amount of such excess reserve account distribution shall be limited to that amount which, when added to the total account A distribution for the same calendar year, will allow a percentage increase or decrease in total calendar year distributions equal to the percentage increase or decrease in excise tax collections between the preceding calendar year and the current calendar year:

(a) The department of revenue shall calculate a harvest factor and a harvest factor proportion for each taxing district, in the manner provided in subsection (5) of this section except that for years before 1978 there shall be used the aggregate value of timber harvested for as many quarters for which information is available;

(b) By multiplying the amount of such excess by the harvest factor proportion for each taxing district respectively, the department of revenue shall calculate the amount to be distributed to each local taxing district and to the state and shall certify such amounts to the respective county assessors and state;

(c) Along with each quarterly payment pursuant to subsection (2) of this section, the state treasurer shall pay, out of the state timber reserve account, to the treasurer of each timber county for the account of each local taxing district one-fourth of such district's portion

(determined pursuant to (b) above) of such excess and the state treasurer shall pay into the state's general fund for the support of the common schools out of the state timber tax reserve account such additional one-fourth amount due the state.

(5) On or before December 31 of each year commencing with 1978, the department of revenue shall deliver to the treasurer of each timber county a schedule setting forth for each taxing district or portion thereof lying within such county:

(a) The average of the aggregate value of all timber harvested within such district in each of the immediately preceding five years as determined from the excise tax returns filed with the department of revenue;

(b) The aggregate dollar rate calculated pursuant to RCW 84.33.060 and chapter 84.52 RCW and actually utilized the immediately preceding October in extending real property taxes upon the tax rolls for collection the following year;

(c) A "harvest factor" which is the product of such five year average and such aggregate dollar rate;

(d) The proportion that each taxing district's harvest factor bears to the sum of the harvest factors for all taxing districts in the state. [1977 1st ex.s. c 347 § 3; 1975-'76 2nd ex.s. c 123 § 8; 1974 ex.s. c 187 § 2; 1973 1st ex.s. c 195 § 92; 1972 ex.s. c 148 § 2; 1971 ex.s. c 294 § 8.]

Expiration date—1975-'76 2nd ex.s. c 123: See notes following RCW 43.84.090.

Severability—1974 ex.s. c 187: See note following RCW 82.04.291.

Severability—**Effective dates and termination dates**—**Construction**—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Chapter 84.36 EXEMPTIONS

Sections

- 84.36.047 Nonprofit organization property used for transmission or reception of radio or television signals originally broadcast by governmental agencies.
- 84.36.048 Administration of exemption contained in RCW 84.36.047.
- 84.36.381 Residences—Property tax exemptions—Schedule—Qualifications.
- 84.36.385 Residences—Claims for exemption or renewal affidavit—Forms—Filing—Renewals—Publication and notice of qualifications and manner of making claims.
- 84.36.410 Solar energy systems installed as improvements to real property—Claims for exemption—Duration—Nonrenewals—Filing period termination—Rules.

GENERAL PROVISIONS

- 84.36.810 Cessation of use under which exemption granted—Collection of taxes.
- 84.36.813 Change in use—Duty to notify county assessor—Examination—Recommendation.
- 84.36.825 Application fee—Waiver authorized—Applications for 1974 considered initial applications—Late filing penalty.

84.36.047 Nonprofit organization property used for transmission or reception of radio or television signals

originally broadcast by governmental agencies. The following property shall be exempt from taxation:

Real and personal property owned by or leased to any nonprofit corporation or association to the extent used exclusively to rebroadcast, amplify, or otherwise facilitate the transmission and/or reception of radio and/or television signals originally broadcast by foreign or domestic governmental agencies for reception by the general public: *Provided*, That in the event such property is leased, the benefit of the exemption shall inure to the user. [1977 1st ex.s. c 348 § 1.]

Effective date—**Construction**—1977 1st ex.s. c 348: "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, shall take effect immediately and shall be effective for assessment in 1977 for taxes due and payable in 1978." [1977 1st ex.s. c 348 § 3.]

84.36.048 Administration of exemption contained in RCW 84.36.047. The exemption contained in RCW 84.36.047 shall be subject to the administrative provisions contained in RCW 84.36.800 through 84.36.865 as now or hereafter amended. [1977 1st ex.s. c 348 § 2.]

Effective date—**Construction**—1977 1st ex.s. c 348: See note following RCW 84.36.047.

84.36.381 Residences—Property tax exemptions—Schedule—Qualifications. A person shall be exempt from any legal obligation to pay all or a portion of the amount of excess and regular real property taxes due and payable in the year following the year in which a claim is filed in accordance with the following conditions:

(1) The property taxes must have been imposed upon a residence which has been regularly occupied by the person claiming the exemption during the two calendar years preceding the year in which the exemption claim is filed; or the property taxes must have been imposed upon a residence which was occupied by the person claiming the exemption as a principal place of residence as of January 1st of the year for which the claim is filed and the person claiming the exemption must also have been a resident of the state of Washington for the last three calendar years preceding the year in which the claim is filed: *Provided*, That any person who sells, transfers, or is displaced from his or her residence may transfer his or her exemption status to a replacement residence, but no claimant shall receive an exemption on more than one residence in any year;

(2) The person claiming the exemption must have owned, at the time of filing, in fee, or by contract purchase, the residence on which the property taxes have been imposed or if the person claiming the exemption lives in a cooperative housing association, corporation, or partnership, such person must own a share therein representing the unit or portion of the structure in which he or she resides. For purposes of this subsection, a residence owned by a marital community shall be deemed to be owned by each spouse;

(3) The person claiming the exemption must have been sixty-two years of age or older on January 1st of the year in which the exemption claim is filed, or must

have been, at the time of filing, retired from regular gainful employment by reason of physical disability;

(4) The amount that the person shall be exempt from an obligation to pay shall be calculated, on the basis of the combined income, from all sources whatsoever, of the person claiming the exemption and his or her spouse for the preceding calendar year, in accordance with the following schedule:

Income Range	Percentage of Excess Levies Exemption
\$7,000 or less	One hundred percent
\$7,001 – \$8,000	Fifty percent

Provided, however, That, in addition, any person, who otherwise qualifies under the provisions of this section, and is within the income range of six thousand dollars or less shall be exempt from any obligation to pay regular property taxes on up to five thousand dollars of valuation of his or her residence: *Provided further,* That only two-thirds of any social security benefits, federal civil service retirement, or railroad retirement pension shall be considered as income for the purposes of this section: *And provided further,* That the gain realized by any person from the sale, transfer, or upon being displaced from his or her residence shall not be considered as income for the purposes of this section if reinvested in a replacement residence within eighteen months of its realization. [1977 1st ex.s. c 268 § 1; 1975 1st ex.s. c 291 § 14; 1974 ex.s. c 182 § 1.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

Severability—1974 ex.s. c 182: "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 182 § 8.]

84.36.385 Residences—Claims for exemption or renewal affidavit—Forms—Filing—Renewals—Publication and notice of qualifications and manner of making claims. Claims for exemption or a renewal affidavit under RCW 84.36.381 shall be made annually and filed between January 2 and July 1 of the year in which the property tax levies are imposed and solely upon forms as prescribed and furnished by the department of revenue.

Claims under RCW 84.36.381 through 84.36.389, as now or hereafter amended, in 1977 shall be filed between January 2 and October 1, 1977.

In January of each year the county assessor shall mail renewal affidavits for exemption to each person approved for exemption during the previous year.

If the assessor finds that the applicant does not meet the qualifications as set forth in RCW 84.36.381, as now or hereafter amended, the claim shall be denied but such denial shall be subject to appeal under the provisions of RCW 84.48.010(5). If the applicant had received exemption in prior years based on erroneous information, the taxes shall be collected subject to penalties as provided in RCW 84.40.130 for a period of not to exceed three years.

The department and each local assessor is hereby directed to publicize the qualifications and manner of making claims pursuant to this chapter, through communications media, including such paid advertisements or notices as it deems appropriate. Notice of the qualifications, method of making applications and availability of further information shall be included on or with property tax statements for all residential property including mobile homes, except rental properties. [1977 1st ex.s. c 268 § 2; 1974 ex.s. c 182 § 3.]

84.36.410 Solar energy systems installed as improvements to real property—Claims for exemption—Duration—Nonrenewals—Filing period termination—Rules. (1) "Solar energy system" means equipment which meets the minimum standards, if any, promulgated by the United States department of housing and urban development, and which provides for the collection and use of incident solar energy for water heating, space heating or cooling, or other applications which require or would require a conventional source of energy such as petroleum products, natural gas, or electricity and which perform primarily with solar energy. In such other systems in which solar energy is used in a supplemental way, only those components which collect and transfer solar energy shall be included in this definition.

(2) Solar energy systems installed as improvements to real property shall be exempt from property taxation.

(3) Claims for exemption authorized by this section shall be filed with the county assessor on forms prescribed by the department of revenue and furnished by the assessor. Once filed, the exemption shall be valid for seven years and shall not be renewed. The assessor shall verify and approve such claims as he or she determines to be justified and in accordance with this section. No claims may be filed after December 31, 1981.

The department of revenue shall promulgate such rules and regulations, pursuant to chapter 34.04 RCW as are necessary and convenient to properly administer the provisions of this section. [1977 1st ex.s. c 364 § 1.]

GENERAL PROVISIONS

84.36.810 Cessation of use under which exemption granted—Collection of taxes. (1) Upon cessation of a use under which an exemption has been granted pursuant to RCW 84.36.030, 84.36.040, and 84.36.060, the county treasurer shall collect all taxes which would have been paid had the property not been exempt during the seven years preceding, or the life of such exemption, if such be less, together with the interest at the same rate and computed in the same way as that upon delinquent property taxes.

(2) Upon cessation of a use under which an exemption has been granted pursuant to RCW 84.36.050 to a school or college, the county treasurer shall collect all taxes which would have been paid had the property not been exempt during the three years preceding, or the life of such exemption, if such be less, together with the interest at the same rate and computed in the same way as that upon delinquent property taxes, plus a tax, at the

same rate as the property tax rate for that year, on the amount of profit from the sale of property (the difference between the sales price and the purchase price plus improvements): *Provided*, That where the school or college has operated for more than ten years, no penalty shall be assessed.

(3) If the cessation of use under subsections (1) or (2) of this section involves a portion of the total property exemptions the provisions of those subsections shall apply only to that portion: *Provided further*, That such additional tax shall not be imposed if the cessation of use resulted solely from:

(a) Transfer to an organization, association, or corporation for a use which also qualifies and is granted exemption under the provisions of chapter 84.36 RCW;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) Official action by an agency of the state of Washington or by the county or city within which the property is located which disallows the present use of such property;

(d) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the organization, association, or corporation changing the use of such property;

(e) Relocation of the activity and use of another location or site except for undeveloped properties of camp facilities exempted under RCW 84.36.030. [1977 1st ex.s. c 209 § 1; 1973 2nd ex.s. c 40 § 8.]

84.36.813 Change in use—Duty to notify county assessor—Examination—Recommendation. An exempt property owner shall notify the department of revenue of any change of use prior to each assessment year. Any other person believing that a change in the use of exempt property has occurred shall report same to the county assessor, who shall examine the property and if the use is not in compliance with chapter 84.36 RCW he shall report the information to the department with a recommendation that the exempt status be canceled. The final determination shall be made by the department. [1977 1st ex.s. c 209 § 3.]

84.36.825 Application fee—Waiver authorized—Applications for 1974 considered initial applications—Late filing penalty. An application fee of thirty-five dollars for each initial and renewal application shall be required and shall be deposited within the general fund: *Provided*, That the department of revenue may waive the application fee related to the property of any church or cemetery applying for exemption under the provisions of RCW 84.36.020 whose gross receipts related to the use of such property for exempt purposes did not exceed two thousand five hundred dollars during the calendar year preceding the application year. Applications made for assessment year 1974, if approved, shall be considered initial applications whether or not an exemption has previously been approved. A late filing penalty of ten dollars per month for each month an application is past due shall be required and shall be

deposited in the general fund. [1977 1st ex.s. c 209 § 2; 1975-'76 2nd ex.s. c 127 § 2; 1975 1st ex.s. c 291 § 19; 1973 2nd ex.s. c 40 § 11.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

Chapter 84.40 LISTING OF PROPERTY

Sections

84.40.045 Notice of change in valuation of real property to be given taxpayer—Copy to person making payments pursuant to mortgage, contract or deed of trust—Procedure—Penalty.

84.40.045 Notice of change in valuation of real property to be given taxpayer—Copy to person making payments pursuant to mortgage, contract or deed of trust—Procedure—Penalty. The assessor shall give notice of any change in the true and fair value of real property for the tract or lot of land and any improvements thereon no later than thirty days after appraisal: *Provided*, That no such notice shall be mailed during the period from January 15 to February 15 of each year: *Provided further*, That no notice need be sent with respect to changes in valuation of forest land made pursuant to chapter 84.33 RCW.

The notice shall contain a statement of both the prior and the new true and fair value and the ratio of the assessed value to the true and fair value on which the assessment of the property is based, stating separately land and improvement values, and a brief statement of the procedure for appeal to the board of equalization and the time, date, and place of the meetings of the board.

The notice shall be mailed by the assessor to the taxpayer.

If any taxpayer, as shown by the tax rolls, holds solely a security interest in the real property which is the subject of the notice, pursuant to a mortgage, contract of sale, or deed of trust, such taxpayer shall, upon written request of the assessor, supply, within thirty days of receipt of such request, to the assessor the name and address of the person making payments pursuant to the mortgage, contract of sale, or deed of trust, and thereafter such person shall also receive a copy of the notice provided for in this section. Wilful failure to comply with such request within the time limitation provided for herein shall make such taxpayer subject to a civil penalty of five dollars for each parcel of real property within the scope of the request in which it holds the security interest, the aggregate of such penalties in any one year not to exceed five thousand dollars. The penalties provided for herein shall be recoverable in an action by the county prosecutor, and when recovered shall be deposited in the county current expense fund. The assessor shall make the request provided for by this section during the month of January. [1977 1st ex.s. c 181 § 1; 1974 ex.s. c 187 § 8; 1972 ex.s. c 125 § 1; 1971 ex.s. c 288 § 16; 1967 ex.s. c 146 § 10.]

Severability—1974 ex.s. c 187: See note following RCW 82.04.291.

Severability—1972 ex.s. c 125: "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 125 § 4.] This applies to the 1972 ex.s. amendments to this section and RCW 84.40.030 and to RCW 84.36.400.

Savings—Severability—1971 ex.s. c 288: See notes following RCW 84.40.030.

Chapter 84.48

EQUALIZATION OF ASSESSMENTS

Sections

- 84.48.010 County board of equalization—Formation—Per diem—Meetings—Duties—Records—Correction of rolls—Extending taxes—Change in valuation, release or commutation of taxes by county legislative authority prohibited (as amended by 1977 c 33).
- 84.48.010 County board of equalization—Formation—Per diem—Meetings—Duties—Records—Correction of rolls—Extending taxes—Change in valuation, release or commutation of taxes by county commissioners prohibited (as amended by 1977 1st ex.s. c 290).
- 84.48.075 County indicated ratio—Department of revenue determination—Rules—Use classes—Preliminary findings—Review.
- 84.48.085 Repealed.

84.48.010 County board of equalization—Formation—Per diem—Meetings—Duties—Records—Correction of rolls—Extending taxes—Change in valuation, release or commutation of taxes by county legislative authority prohibited (as amended by 1977 c 33). Prior to July 1st, the county legislative authority shall form a board for the equalization of the assessment of the property of the county. The members of said board may receive up to fifty dollars per day for each day of actual attendance of the meeting of the board of equalization to be paid out of the current expense fund of the county: *Provided*, That when the county legislative authority constitute the board they shall not receive the per diem allowance. The board of equalization shall meet in open session for this purpose annually on the first Monday in July and, having each taken an oath fairly and impartially to perform their duties as members of such board, they shall examine and compare the returns of the assessment of the property of the county and proceed to equalize the same, so that each tract or lot of real property and each article or class of personal property shall be entered on the assessment list at its true and fair value, according to the measure of value used by the county assessor in such assessment year, and subject to the following rules:

First. They shall raise the valuation of each tract or lot or item of real property which in their opinion is returned below its true and fair value to such price or sum as they believe to be the true and fair value thereof, after at least five days' notice shall have been given in writing to the owner or agent.

Second. They shall reduce the valuation of each tract or lot or item which in their opinion is returned above its true and fair value to such price or sum as they believe to be the true and fair value thereof.

Third. They shall raise the valuation of each class of personal property which in their opinion is returned below its true and fair value to such price or sum as they believe to be the true and fair value thereof, and they shall raise the aggregate value of the personal property of each individual whenever they believe that such aggregate value is less than the true valuation of the taxable personal property possessed by such individual, to such sum or amount as they believe to be the true value thereof, after at least five days' notice shall have been given in writing to the owner or agent thereof.

Fourth. They shall, upon complaint in writing of any party aggrieved, reduce the valuation of each class of personal property enumerated on the detail and assessment list of the current year, which in their opinion is returned above its true and fair value, to such price or sum as they believe to be the true and fair value thereof; and, upon like complaint, they shall reduce the aggregate valuation of the personal property of such individual who, in their opinion, has been

assessed at too large a sum, to such sum or amount as they believe was the true and fair value of his personal property.

Fifth. The board may review all claims for either real or personal property tax exemption, and shall consider any taxpayer appeals from the decision of the assessor thereon to determine (1) if the taxpayer is entitled to an exemption, and (2) if so, the amount thereof.

The clerk of the board shall keep an accurate journal or record of the proceedings and orders of said board in a book kept for that purpose, showing the facts and evidence upon which their action is based, and the said record shall be published the same as other proceedings of county legislative authority, and shall make a true record of the changes of the descriptions and assessed values ordered by the county board of equalization. The assessor shall correct the real and personal assessment rolls in accordance with the changes made by the said county board of equalization, and he shall make duplicate abstracts of such corrected values, one copy of which shall be retained in his office, and one copy forwarded to the state board of equalization on or before the fifth day of August next following the meeting of the county board of equalization.

The county board of equalization shall meet on the first Monday in July and may continue in session and adjourn from time to time during a period not to exceed four weeks, but shall remain in session not less than three days: *Provided*, That, in addition to the several times fixed by statute, any county board of equalization may be reconvened for special or general purposes, but not later than three years after the date of adjournment of its regularly convened session by order of the department of revenue.

No taxes, except special taxes, shall be extended upon the tax rolls until the property valuations are equalized by the state board of equalization for the purpose of raising the state revenue.

County legislative authorities as such shall at no time have any authority to change the valuation of the property of any person or to release or commute in whole or in part the taxes due on the property of any person. [1977 c 33 § 1; 1970 ex.s. c 55 § 2; 1961 c 15 § 84.48.010. Prior: 1939 c 206 § 35; 1925 ex.s. c 130 § 68; RRS § 11220; prior: 1915 c 122 § 1; 1907 c 129 § 1; 1897 c 71 § 58; 1893 c 124 § 59; 1890 p 555 § 73; Code 1881 §§ 2873–2879. Formerly RCW 84.48.010, 84.48.020, 84.48.030, 84.48.040 and 84.48.060.]

84.48.010 County board of equalization—Formation—Per diem—Meetings—Duties—Records—Correction of rolls—Extending taxes—Change in valuation, release or commutation of taxes by county commissioners prohibited (as amended by 1977 1st ex.s. c 290). Prior to July 1st, the county commissioners shall form a board for the equalization of the assessment of the property of the county. The members of said board may receive twenty-five dollars per day for each day of actual attendance of the meeting of the board of equalization to be paid out of the current expense fund of the county: *Provided*, That when the county commissioners constitute the board they shall not receive the per diem allowance. The board of equalization shall meet in open session for this purpose annually on the first Monday in July and, having each taken an oath fairly and impartially to perform their duties as members of such board, they shall examine and compare the returns of the assessment of the property of the county and proceed to equalize the same, so that each tract or lot of real property and each article or class of personal property shall be entered on the assessment list at its true and fair value, according to the measure of value used by the county assessor in such assessment year, and subject to the following rules:

First. They shall raise the valuation of each tract or lot or item of real property which in their opinion is returned below its true and fair value to such price or sum as they believe to be the true and fair value thereof, after at least five days' notice shall have been given in writing to the owner or agent.

Second. They shall reduce the valuation of each tract or lot or item which in their opinion is returned above its true and fair value to such price or sum as they believe to be the true and fair value thereof.

Third. They shall raise the valuation of each class of personal property which in their opinion is returned below its true and fair value to such price or sum as they believe to be the true and fair value thereof, and they shall raise the aggregate value of the personal property of each individual whenever they believe that such aggregate value is less than the true valuation of the taxable personal property possessed by such individual, to such sum or amount as they believe to be the true value thereof, after at least five days' notice shall have been given in writing to the owner or agent thereof.

Fourth. They shall, upon complaint in writing of any party aggrieved, reduce the valuation of each class of personal property enumerated on the detail and assessment list of the current year, which in their opinion is returned above its true and fair value, to such price or sum as they believe to be the true and fair value thereof; and, upon like complaint, they shall reduce the aggregate valuation of the personal property of such individual who, in their opinion, has been assessed at too large a sum, to such sum or amount as they believe was the true and fair value of his personal property.

Fifth. The board may review all claims for either real or personal property tax exemption, and shall consider any taxpayer appeals from the decision of the assessor thereon to determine (1) if the taxpayer is entitled to an exemption, and (2) if so, the amount thereof.

The clerk of the board shall keep an accurate journal or record of the proceedings and orders of said board in a book kept for that purpose, showing the facts and evidence upon which their action is based, and the said record shall be published the same as other proceedings of county commissioners, and shall make a true record of the changes of the descriptions and assessed values ordered by the county board of equalization. The assessor shall correct the real and personal assessment rolls in accordance with the changes made by the said county board of equalization, and he shall make duplicate abstracts of such corrected values, one copy of which shall be retained in his office, and one copy forwarded to the state board of equalization on or before the fifth day of August next following the meeting of the county board of equalization.

The county board of equalization shall meet on the first Monday in July and may continue in session and adjourn from time to time during a period not to exceed four weeks, but shall remain in session not less than three days: *Provided*, That, in addition to the several times fixed by statute, any county board of equalization may be reconvened for special or general purposes, but not later than three years after the date of adjournment of its regularly convened session by order of the department of revenue: *Provided, further*, That the county board of equalization with the approval of the county legislative authority may convene at any time when petitions filed exceed twenty-five, or ten percent of the number of appeals filed in the preceding year, whichever is greater.

No taxes, except special taxes, shall be extended upon the tax rolls until the property valuations are equalized by the state board of equalization for the purpose of raising the state revenue.

Boards of county commissioners as such shall at no time have any authority to change the valuation of the property of any person or to release or commute in whole or in part the taxes due on the property of any person. [1977 1st ex.s. c 290 § 2; 1970 ex.s. c 55 § 2; 1961 c 15 § 84.48.010. Prior: 1939 c 206 § 35; 1925 ex.s. c 130 § 68; RRS § 11220; prior: 1915 c 122 § 1; 1907 c 129 § 1; 1897 c 71 § 58; 1893 c 124 § 59; 1890 p 555 § 73; Code 1881 §§ 2873-2879. Formerly RCW 84.48.010, 84.48.020, 84.48.030, 84.48.040 and 84.48.060.]

Reviser's note: RCW 84.48.010 was amended twice during the 1977 regular and first extraordinary session, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

84.48.075 County indicated ratio—Department of revenue determination—Rules—Use classes—Preliminary findings—Review. (1) The department of revenue shall annually, prior to the first Monday in August, determine the indicated ratio for each county: *Provided*, That the department shall establish rules and regulations pertinent to the determination of the indicated ratio, the indicated real property ratio and the indicated personal property ratio: *Provided further*, That these rules and regulations may provide that data, as is necessary for said determination, which is available from the county assessor of any county and which has been audited as to its validity by the department, may be utilized by the department in determining the indicated ratio.

(2) To such extent as is reasonable, the department may define use classes of property for the purposes of

determination of the indicated ratio. Such use classes may be defined with respect to property use and may include agricultural, open space, timber and forest lands.

(3) Prior to equalization of assessments pursuant to RCW 84.48.080, but no later than August 1st, the department shall submit its findings or preliminary findings to each of the county assessors allowing a reasonable time for review by the assessor. [1977 1st ex.s. c 284 § 3.]

Purpose—Intent—1977 1st ex.s. c 284: "It is the intent of the legislature that the methodology used in the equalization of property values for the purposes of the state levy, public utility assessment, and other purposes, shall be designed to ensure uniformity and equity in taxation throughout the state to the maximum extent possible.

It is the purpose of this 1977 amendatory act to provide certain guidelines for the determination of the ratio of assessed value to the full true and fair value of the general property in each county." [1977 1st ex.s. c 284 § 1.]

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

Chapter 84.52 LEVY OF TAXES

Sections

84.52.052	Excess levies authorized—When—Procedure.
84.52.053	Excess levies by school districts authorized— When—Procedure.
84.52.0531	Excess levies by school districts—Maximum dollar amount for maintenance and operation support—Restrictions—Compensation defined—Authority to exceed levy limitations.
84.52.054	Excess levies—Ballot contents—Eventual dollar rate on tax rolls.

84.52.052 Excess levies authorized—When—Procedure. The limitations imposed by RCW 84.52.050 through 84.52.056, and RCW 84.52.043 shall not prevent the levy of additional taxes by any taxing district except school districts in which a larger levy is necessary in order to prevent the impairment of the obligation of contracts. Any county, metropolitan park district, park and recreation district in class AA counties and counties of the second, eighth and ninth class, sewer district, water district, public hospital district, rural county library district, intercounty rural library district, fire protection district, cemetery district, city or town may levy taxes at a rate in excess of the rate specified in RCW 84.52.050 through 84.52.056 and RCW 84.52-.043, or RCW 84.55.010 through 84.55.050, when authorized so to do by the electors of such county, metropolitan park district, park and recreation district in class AA counties and counties of the second, eighth and ninth class, sewer district, water district, public hospital district, rural county library district, intercounty rural library district, fire protection district, cemetery district, city or town in the manner set forth in Article VII, section 2(a) of the Constitution of this state, as amended by Amendment 59 and as thereafter amended, at a special or general election to be held in the year in which the levy is made.

A special election may be called and the time therefor fixed by the board of county commissioners or other

county legislative authority, or council, board of commissioners or other governing body of any metropolitan park district, park and recreation district in class AA counties and counties of the second, eighth and ninth class, sewer district, water district, public hospital district, rural county library district, intercounty rural library district, fire protection district, cemetery district, city or town, by giving notice thereof by publication in the manner provided by law for giving notices of general elections, at which special election the proposition authorizing such excess levy shall be submitted in such form as to enable the voters favoring the proposition to vote "yes" and those opposed thereto to vote "no". [1977 1st ex.s. c 325 § 1; 1977 c 4 § 1; 1973 1st ex.s. c 195 § 102; 1973 1st ex.s. c 195 § 147; 1973 c 3 § 1; 1971 ex.s. c 288 § 26; 1965 ex.s. c 113 § 1; 1963 c 112 § 1; 1961 c 15 § 84.52.052. Prior: 1959 c 304 § 8; 1959 c 290 § 1; 1957 c 58 § 15; 1957 c 32 § 1; 1955 c 93 § 1; 1953 c 189 § 1; 1951 2nd ex.s. c 23 § 3; prior: 1951 c 255 § 1, part; 1950 ex.s. c 11 § 1, part; 1945 c 253 § 1, part; 1941 c 176 § 1, part; 1939 c 83 § 1, part; 1939 c 2 (Init. Meas. No. 129); 1937 c 1 (Init. Meas. No. 114); 1935 c 2 (Init. Meas. No. 94); 1933 c 4 (Init. Meas. No. 64); Rem. Supp. 1945 § 11238-1e, part.]

Severability—1977 1st ex.s. c 325: "If any provision of this 1977 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." [1977 1st ex.s. c 325 § 5.]

Effective date—1977 1st ex.s. c 325: "This 1977 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, 1977." [1977 1st ex.s. c 325 § 6.]

The foregoing annotations apply to the amendments to RCW 84.52-.052 and 84.52.054, and to RCW 84.52.053 and 84.52.0531 as enacted by 1977 1st ex.s. c 325.

Severability—1977 c 4: "If any provision of this 1977 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." [1977 c 4 § 4.] This applies to the amendments to RCW 29.27.060, 84.52.052, and 84.52.054 by 1977 c 4.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Savings—Severability—1971 ex.s. c 288: See notes following RCW 84.40.030.

84.52.053 Excess levies by school districts authorized—When—Procedure. The limitations imposed by RCW 84.52.050 through 84.52.056, and RCW 84.52.043 shall not prevent the levy of additional taxes by school districts, when authorized so to do by the electors of such school district in the manner set forth in Article VII, section 2(a) of the Constitution of this state, as amended by Amendment 59 and as thereafter amended, at a special or general election to be held in the year in which the levy is made or, in the case of a proposition authorizing levies for support of a school district for a two year period, at a special or general election to be held in the year in which the first annual levy is made: *Provided*, That once additional tax levies have been authorized for the support of a school district for a two year period, no further additional tax levies for

the support of the district for that period may be authorized.

A special election may be called and the time therefor fixed by the board of school directors, by giving notice thereof by publication in the manner provided by law for giving notices of general elections, at which special election the proposition authorizing such excess levy shall be submitted in such form as to enable the voters favoring the proposition to vote "yes" and those opposed thereto to vote "no". [1977 1st ex.s. c 325 § 3.]

Severability—Effective date—1977 1st ex.s. c 325: See notes following RCW 84.52.052.

84.52.0531 Excess levies by school districts—Maximum dollar amount for maintenance and operation support—Restrictions—Compensation defined—Authority to exceed levy limitations. The maximum dollar amount which may be levied by or for any school district for maintenance and operation support under the provisions of RCW 84.52.053 shall be as follows:

(1) For excess levies in 1977 for collection in 1978:

To the extent that any district receives funds through the state apportionment formula in excess of the amount anticipated by such a district when it established its excess levy for collection in 1978 and when such excess can be utilized to relieve special levy burdens, then such a district should place a first priority on reducing its special levy.

(2) For excess levies in 1977 for collection in 1979; for excess levies in 1978 for collection in 1979 and thereafter, the sum of:

(a) That amount equal to ten percent of each school district's prior year basic education allocation converted to one hundred percent of formula; plus

(b) That amount equal to each school district's prior year basic education allocation converted to one hundred percent of formula minus each school district's basic education allocation for such school year.

(3) Excess levies authorized under *this 1977 amendatory act or under RCW 84.52.052 shall not be used to increase the average compensation for certificated or classified personnel in any school district: *Provided*, That those school districts which receive state funds budgeted for a four percent increase in average compensation for certificated or classified personnel respectively shall be allowed to increase such certificated or classified compensation by an amount equal to the percentage increase in the prior year's United States Consumer Price Index minus the state funded four percent, or by an additional two percent, whichever is less: *Provided further*, That any school district whose average compensation for certificated or classified personnel respectively is below state-wide average compensation level for certificated or classified personnel during the preceding school year, may collect and expend property taxes authorized by *this 1977 amendatory act, or under RCW 84.52.052, for the purpose of increasing such district average compensation for certificated or classified personnel up to but not to exceed the state-wide average compensation for certificated or classified personnel for the preceding school year: *Provided further*, That those contracts which have been negotiated prior to July 1, 1977 by

those school districts for such school year shall not be abrogated by *this 1977 amendatory act.

(4) For the purpose of the section, the basic education allocation shall be determined pursuant to RCW 28A.41.130, 28A.41.140, and 28A.41.145, as now or hereafter amended.

"Compensation" for the purposes of *this 1977 amendatory act shall mean one hundred and seven percent of each school district's respective average salary for certificated personnel, and one hundred and fourteen percent of each school district's respective average salary for classified personnel.

Certificated personnel shall include those persons employed by a school district in a teaching, instructional, administrative or supervisory capacity and who hold positions as certificated personnel as defined under RCW 28A.01.130, as now or hereafter amended, and every school district superintendent, and any person hired in any manner to fill a position designated as, or which is in fact, that of deputy superintendent or assistant superintendent. Classified personnel shall include those persons employed by a school district other than certificated personnel as defined in this section in a capacity for which certification is not required.

For the purpose of subsection (2) of this section, the superintendent of public instruction may grant local school districts authority to exceed the levy limitations imposed by said subsection: *Provided*, That said limitations can only be exceeded by an amount that will insure local school districts the ability to raise a total excess levy dollar amount per annual average full time equivalent student which when combined with the basic education allocation is equal to but does not exceed one hundred and four percent of the previous school year's comparable dollars per annual average full time equivalent student.

The superintendent of public instruction shall develop rules and regulations and inform school districts of the pertinent data necessary to carry out the provisions of *this 1977 amendatory act. [1977 1st ex.s. c 325 § 4.]

***Reviser's note:** "this 1977 amendatory act" [1977 1st ex.s. c 325] consists of amendments to RCW 84.52.052 and 84.52.054 and to RCW 84.52.053 and 84.52.0531.

Severability—Effective date—1977 1st ex.s. c 325: See notes following RCW 84.52.052.

84.52.054 Excess levies—Ballot contents—Eventual dollar rate on tax rolls. The additional tax provided for in subparagraph (a) of the seventeenth amendment to the state Constitution as amended by Amendment 59 and as thereafter amended, and specifically authorized by RCW 84.52.052, as now or hereafter amended, and RCW 84.52.053 and 84.52.0531, shall be set forth in terms of dollars on the ballot of the proposition to be submitted to the voters, together with an estimate of the dollar rate of tax levy that will be required to produce the dollar amount; and the county assessor, in spreading this tax upon the rolls, shall determine the eventual dollar rate required to produce the amount of dollars so voted upon, regardless of the estimate of dollar rate of tax levy carried in said proposition. In the case of a school district proposition for a two year period, the

dollar amount and the corresponding estimate of the dollar rate of tax levy shall be set forth for each of the two years. The dollar amount for each of the two annual levies may be equal or in different amounts. [1977 1st ex.s. c 325 § 2; 1977 c 4 § 2; 1973 1st ex.s. c 195 § 103; 1961 c 15 § 84.52.054. Prior: 1955 c 105 § 1.]

Severability—Effective date—1977 1st ex.s. c 325: See notes following RCW 84.52.052.

Severability—1977 c 4: See note following RCW 84.52.052.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Chapter 84.60 LIEN OF TAXES

Sections

84.60.020 Attachment of tax liens.

84.60.020 Attachment of tax liens. The taxes assessed upon real property and mobile homes as defined in RCW 82.50.010 shall be a lien thereon from and including the first day of January in the year in which they are levied until the same are paid, but as between the grantor or vendor and the grantee or purchaser of any real property or any such mobile home, when there is no express agreement as to payment of the taxes thereon due and payable in the calendar year of the sale or the contract to sell, the grantor or vendor shall be liable for the same proportion of such taxes as the part of the calendar year prior to the day of the sale or the contract to sell bears to the whole of such calendar year, and the grantee or purchaser shall be liable for the remainder of such taxes and subsequent taxes. The lien for the property taxes assessed on a mobile home shall be terminated and absolved for the year subsequent to the year of its removal from the state, when notice is given to the county treasurer describing the mobile home, if all property taxes due at the time of removal are satisfied. The taxes assessed upon each item of personal property assessed shall be a lien upon such personal property except mobile homes as above provided from and after the date upon which the same is listed with and valued by the county assessor, and no sale or transfer of such personal property shall in any way affect the lien for such taxes upon such property. The taxes assessed upon personal property shall be a lien upon each item of personal property of the person assessed, distrained by the treasurer as provided in RCW 84.56.070, from and after the date of the distraint and no sale or transfer of such personal property so distrained shall in any way affect the lien for such taxes upon such property. The taxes assessed upon personal property shall be a lien upon the real property of the person assessed, selected by the county treasurer and designated and charged upon the tax rolls as provided in RCW 84.60.040, from and after the date of such selection and charge and no sale or transfer of such real property so selected and charged shall in any way affect the lien for such personal property taxes upon such property. [1977 1st ex.s. c 22 § 8; 1961 c 15 § 84.60.020. Prior: 1943 c 34 § 1; 1939 c 206 § 45; 1935 c 30 § 7;

1925 ex.s. c 130 § 104; Rem. Supp. 1943 § 11265; prior: 1903 c 59 § 3; 1897 c 71 § 83; 1895 c 176 § 21; 1893 c 124 § 88. Formerly RCW 84.60.020 and 84.60.030.]

Severability—1977 1st ex.s. c 22: See note following RCW 46.04.302.

Chapter 84.70

DESTROYED PROPERTY—ABATEMENT OR REFUND

Sections

84.70.020 Claims for relief—Procedure.

84.70.020 Claims for relief—Procedure. Within seventy-five days after the date of destruction, or within the year in which the destruction occurs, the taxpayer, using a form prepared by the department of revenue and provided by the assessor, shall notify the county assessor of his intention to claim the relief provided by RCW 84.70.010 through 84.70.040 as now or hereafter amended. The taxpayer shall also file a copy with the legislative body of the county, which shall serve as a petition for abatement of the tax: *Provided*, That the form shall contain such information as the department may prescribe. After receipt of the taxpayer's claim, and within thirty days after receipt, the county assessor shall provide the legislative body of the county with his determination of the facts necessary to calculate the amount of relief, if any, to which he believes the taxpayer is entitled. A copy of the assessor's determination shall be sent to the taxpayer. [1977 1st ex.s. c 200 § 1; 1975 1st ex.s. c 120 § 3; 1974 ex.s. c 196 § 4.]

Severability—1974 ex.s. c 196: See note following RCW 84.56.020.

Title 85

DIKING AND DRAINAGE

Chapters

85.06 Drainage districts and miscellaneous drainage provisions.

Chapter 85.06

DRAINAGE DISTRICTS AND MISCELLANEOUS DRAINAGE PROVISIONS

Sections

85.06.110 Summons—Contents—Service.

85.06.110 Summons—Contents—Service. A summons stating briefly the objects of the petition and containing a description of the land, real estate, premises or property sought to be appropriated, and those which it is claimed to be benefited by such improvement, and stating the court wherein said petition is filed, the date of the filing thereof and when the defendants are required to appear (which shall be ten days, exclusive of the day of service, if served within the county in which

the petition is pending, and if in any other county, then twenty days after such service, and if served by publication, then within thirty days from the date of the first publication), shall be served on each and every person named therein as owner, encumbrancer, tenant or otherwise interested therein. Said summons must be subscribed by the commissioners, or their attorney, running in the name of the state of Washington and directed to the defendants; and service thereof shall be made by delivering a copy of such summons to each of the persons or parties so named therein, if a resident of the state, or in case of the absence of such person or party from his or her usual place of abode, by leaving a copy of such notice at his or her usual place of abode, or in case of a foreign corporation, at its principal place of business in this state with some person of more than sixteen years of age; in case of domestic corporations, said service shall be made upon the president, secretary or other director or trustee of such corporation; in case of persons under eighteen years of age, on their guardians; or in case no guardian shall have been appointed, then on the person who has the care and custody of such person; in the case of mentally ill or mentally incompetent persons, on their guardian or limited guardian; or in case no guardian or limited guardian shall have been appointed, then on such person and on the person in whose care or charge such person is found. *In case the land, real estate, premises or other property sought to be appropriated, or which it is claimed will be benefited by such improvement, is state, tide, school or county land, the summons shall be served on the auditor of the county in which the land, real estate, premises or other property sought to be appropriated, or which it is claimed will be benefited, is situated. In all cases where the owner or person claiming an interest in such real or other property is a nonresident of this state, or where the residence of such owner or person is unknown, and an affidavit of one or more of the commissioners of said district shall be filed that such owner or person is a nonresident of this state, or that after diligent inquiry his residence is unknown or cannot be ascertained by such deponent, service may be made by publication thereof in a newspaper published in the county where such lands are situated, once a week for three successive weeks; and in case no newspaper is published in such county, then such publication may be had in a newspaper published in the county nearest to the county in which lies the land sought to be appropriated, or which it is claimed will be benefited by said improvement. Such publication shall be deemed service upon each nonresident person or persons whose residence is unknown. Such summons may be served by any competent person eighteen years of age or over. Due proof of service of such summons by affidavit or publication shall be filed with the clerk of such court before the court shall proceed to hear the matter. Want of service of such notice shall render the subsequent proceedings void as to the person not served; but all persons or parties having been served with summons as herein provided, either by publication or otherwise, shall be bound by the subsequent proceedings. In all cases not otherwise provided for service of notice, order and other papers in the proceedings authorized by this chapter

may be made as the superior court, or the judge thereof, may direct: *Provided*, That personal service upon any party outside of the state shall be of like effect as service by publication. [1977 1st ex.s. c 80 § 74; 1971 ex.s. c 292 § 57; 1895 c 115 § 11; RRS § 4309. Formerly RCW 85.04.060, part.]

***Reviser's note:** The case of *Payne v. State*, 156 Wash. 31 states that the provisions of this section relating to the service of summons on the county auditor were repealed by implication by 1909 c 154 § 6 which provided for such service upon the commissioner of public lands. Subsequently 1919 c 164 was enacted containing similar provisions and providing for service upon the commissioner of public lands, and was amended by 1963 c 20 §§ 4 and 5 to provide for service upon the budget director and the chief administrative officer of the agency having jurisdiction over such land. The budget director was changed to the director of program planning and fiscal management (chapter 43.41 RCW). The office of program planning and fiscal management was redesignated the office of financial management by 1977 1st ex.s. c 114 (RCW 43.41.035).

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

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

Title 87 IRRIGATION

Chapters

- 87.03 Irrigation districts generally.
87.25 Certification of bonds.

Chapter 87.03

IRRIGATION DISTRICTS GENERALLY

Sections

- 87.03.200 Bonds—Election for—Form and contents—
Facsimile signatures, when, procedure—
Exchange—Cancellation—Sale and issue—
Reissue—Election concerning contract with
United States—Penalty.
- 87.03.440 Treasurer—County treasurer as ex official district
treasurer—Designated district treasurer,
when—Duties and powers—Bond—
Claims—Preliminary notice requirements when
claim for crop damage.
- 87.03.490 Local improvement districts—Adoption of plan—
Bonds—Form and contents—Facsimile signa-
tures, when, procedure—New lands may be
included—Penalty.
- 87.03.720 Merger of district with drainage, joint drainage, con-
solidated drainage improvement, or sewer dis-
trict—Power to assent.
- 87.03.725 Merger of district with drainage, joint drainage, con-
solidated drainage improvement, or sewer dis-
trict—Notice—Contents—Publication—
Show cause against merger.

87.03.200 Bonds—Election for—Form and contents—Facsimile signatures, when, procedure—Exchange—Cancellation—Sale and issue—Reissue—Election concerning contract with United States—Penalty. At such election shall be submitted to the electors of said district possessing the qualifications prescribed by law the question of whether or not the bonds of said district in the amount and of the

maturities determined by the board of directors shall be issued. Bonds issued under the provisions of this act shall be serial bonds payable in legal currency of the United States in such series and amounts as shall be determined and declared by the board of directors in the resolution calling the election: *Provided*, That the first series shall mature not later than ten years and the last series not later than forty years from the date thereof: *Provided further*, That bonds, authorized by a special election held in the district under the provisions of a former statute, which has subsequent to said authorization been amended, but not issued prior to the amendment of said former statute, may be issued in the form provided in said former statute, and any such bonds heretofore or hereafter so issued and sold are hereby confirmed and validated.

Notice of such bond election must be given by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept, once a week for at least two weeks (three times). Such notices must specify the time of holding the election, and the amount and maturities of bonds proposed to be issued; and said election must be held and the results thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of law governing the election of the district officers: *Provided*, That no informality in conducting such election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the words "Bonds Yes" and "Bonds No," or words equivalent thereto. If a majority of the votes cast are cast "Bonds Yes," the board of directors shall thereupon have authority to cause bonds in said amount and maturities to be issued. If the majority of the votes cast at any bond election are "Bonds No," the result of such election shall be so declared and entered of record; but if contract is made or is to be made with the United States as in RCW 87.03.140 provided, and bonds are not to be deposited with the United States in connection with such contract, the question submitted at such special election shall be whether contract shall be entered into with the United States. The notice of election shall state under the terms of what act or acts of congress contract is proposed to be made, and the maximum amount of money payable to the United States for construction purposes exclusive of penalties and interest. The ballots for such election shall contain the words "Contract with the United States Yes" and "Contract with the United States No," or words equivalent thereto. And whenever thereafter said board, in its judgment, deems it for the best interest of the district that the question of issuance of bonds for said amount, or any amount, or the question of entering into a contract with the United States, shall be submitted to said electors, it shall so declare, by resolution recorded in its minutes, and may thereupon submit such question to said electors in the same manner and with like effect as at such previous election. All bonds issued under this act shall bear interest at such rate or rates as the board of directors may determine, payable semiannually on the first day of January and of July of each year. The principal and interest shall be payable at the

office of the county treasurer of the county in which the office of the board of directors is situated, or if the board of directors shall so determine at the fiscal agency of the state of Washington in New York City, said place of payment to be designated in the bond. The bonds may be in such denominations as the board of directors may in its discretion determine, except that bonds other than bond number one of any issue shall be in a denomination that is a multiple of one hundred dollars. Said bonds shall be negotiable in form, signed by the president and secretary, and the seal of the district shall be affixed thereto. The county treasurer shall register said bonds before the issuance thereof in a book kept for that purpose, and shall certify on each thereof under his seal that it has been so registered. The printed, engraved, or lithographed facsimile signatures of the president and secretary of the district's board of directors and the county treasurer shall be sufficient signatures on the bonds or coupons: *Provided*, That such facsimile signatures on the bonds may be used only after the filing, by the officer whose facsimile signature is to be used, with the secretary of state of his manual signature certified by him under oath, whereupon that officer's facsimile signature has the same legal effect as his manual signature: *Provided, further*, That either the president of the board of directors' or the secretary's signature on the bonds shall be manually subscribed: *And provided further*, That whenever such facsimile reproduction of the signature of any officer is used in place of the manual signature of such officer, the district's board of directors shall specify in a written order or requisition to the printer, engraver, or lithographer the number of bonds or coupons upon which such facsimile signature is to be printed, engraved, or lithographed and the manner of numbering the bonds or coupons upon which such signature shall be placed. Within ninety days after the completion of the printing, engraving, or lithographing of such bonds or coupons, the plate or plates used for the purpose of affixing the facsimile signature shall be destroyed, and it shall be the duty of the district's board of directors, within ninety days after receipt of the completed bonds or coupons, to ascertain that such plate or plates have been destroyed. Every printer, engraver, or lithographer who, with the intent to defraud, prints, engraves, or lithographs a facsimile signature upon any bond or coupon without written order of the district's board of directors, or fails to destroy such plate or plates containing the facsimile signature upon direction of such issuing authority, shall be guilty of felony.

Whenever the electors shall vote to authorize the issuance of bonds of the district such authorization shall nullify and cancel all unsold bonds previously authorized, and if the question is submitted to and carried by the electors at the bond election, any bond issue may be exchanged in whole or in part, at par, for any or all of a valid outstanding bond issue of the district when mutually agreeable to the owner or owners thereof and the district, and the amount of said last bond issue in excess, if any, of that required for exchange purposes, may be sold as in the case of an original issue. The bonds of any issue authorized to be exchanged in whole or in part for outstanding bonds shall state on their face the amount of

such issue so exchanged, and shall contain a certificate of the treasurer of the district as to the amount of the bonds exchanged, and that said outstanding bonds have been surrendered and canceled: *Provided further*, That where bonds have been authorized and unsold, the board of directors may submit to the qualified voters of the district the question of canceling said previous authorization, which question shall be submitted upon the same notice and under the same regulations as govern the submission of the original question of authorizing a bond issue. At such election the ballots shall contain the words "Cancellation Yes," and "Cancellation No," or words equivalent thereto. If at such election a majority of the votes shall be "Cancellation Yes," the said issue shall be thereby canceled and no bonds may be issued thereunder. If the majority of said ballots shall be "Cancellation No," said original authorization shall continue in force with like effect as though said cancellation election had not been held: *Provided*, That bonds deposited with the United States in payment or in pledge may call for the payment of such interest at such rate or rates, may be of such denominations, and call for the repayment of the principal at such times as may be agreed upon between the board and the secretary of the interior.

Each issue shall be numbered consecutively as issued, and the bonds of each issue shall be numbered consecutively and bear date at the time of their issue. Coupons for the interest shall be attached to each bond, signed by the president of the board and the secretary. The signatures of the president and secretary may, however, appear by printed, engraved or lithographed facsimile. Said bonds shall express upon their face that they were issued by authority of this act, stating its title and date of approval, and shall also state the number of issue of which such bonds are a part. The secretary shall keep a record of bonds sold, their number, the date of sale, the price received and the name of the purchaser. In case the money received by the sale of all bonds issued be insufficient for the completion of plans of the canals and works adopted, and additional bonds be not voted, or a contract calling for additional payment to the United States be not authorized and made, as the case may be, it shall be the duty of the board of directors to provide for the completion of said plans by levy of assessments therefor. It shall be lawful for any irrigation districts which have heretofore issued and sold bonds under the law then in force, to issue in place thereof an amount of bonds not in excess of such previous issue, and to sell the same, or any part thereof, as hereinafter provided, or exchange the same, or any part thereof, with the holders of such previously issued bonds which may be outstanding, upon such terms as may be agreed upon between the board of directors of the district and the holders of such outstanding bonds: *Provided*, That the question of such reissue of bonds shall have been previously voted upon favorably by the legally qualified electors of such district, in the same manner as required for the issue of original bonds, and the said board shall not exchange any such bonds for a less amount in par value of the bonds received; all of such old issue in place of which new bonds are issued shall be destroyed whenever lawful in possession of said board. Bonds issued under the

provisions of this section may, when so authorized by the electors, include a sum sufficient to pay the interest thereon for a period not exceeding the first four years. Whenever an issue of bonds shall have been authorized pursuant to law, and any of the earlier series shall have been sold, and the later series, or a portion thereof, remain unsold, the directors may sell such later series pursuant to law, or such portion thereof as shall be necessary to pay the earlier series, or said directors may exchange said later series for the earlier series at not less than the par value thereof, said sale or exchange to be made not more than six months before the maturity of said earlier series and upon said exchange being made the maturing bonds shall be disposed of as hereinbefore provided in the case of bonds authorized to be exchanged in whole or in part for outstanding bonds. [1977 1st ex.s. c 119 § 1; 1970 ex.s. c 56 § 95; 1969 ex.s. c 232 § 46; 1963 c 68 § 2; 1923 c 138 § 9; 1921 c 129 § 8; 1917 c 162 § 3A; 1915 c 179 § 7; 1895 c 165 § 5; 1889-90 p 679 § 15; RRS § 7432. Formerly RCW 87.16.020 through 87.16.070.]

Reviser's note: This section prior to its amendment in 1923 provided for an election in the first paragraph. The language "At such election" referred thereto. That paragraph was deleted in the 1923 act and such election was provided for in other sections. Presently it appears to refer to the special election provided for in RCW 87.03.190.

Effective date—Purpose—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.

87.03.440 Treasurer—County treasurer as ex official district treasurer—Designated district treasurer, when—Duties and powers—Bond—Claims—Preliminary notice requirements when claim for crop damage. The treasurer of the county in which is located the office of the district shall be ex officio treasurer of the district, and any county treasurer handling district funds shall be liable upon his official bond and to criminal prosecution for malfeasance and misfeasance, or failure to perform any duty as county or district treasurer. The treasurer of each county in which lands of the district are located shall collect and receipt for all assessments levied on lands within his county. There shall be deposited with the district treasurer all funds of the district. He shall pay out such funds upon warrants issued by the county auditor against the proper funds of the district, except the sums to be paid out of the bond fund upon coupons or bonds presented to the treasurer. All warrants shall be paid in the order of their issuance. The district treasurer shall report, in writing, on the first Monday in each month to the directors, the amount in each fund, the receipts for the month preceding in each fund, and file the report with the secretary of the board. The secretary shall report to the board, in writing, at the regular meeting in each month, the amount of receipts and expenditures during the preceding month, and file the report in the office of the board.

The preceding paragraph of this section notwithstanding, the board of directors of an irrigation district which lies in more than one county and which had assessments in each of two of the preceding three years equal to at least five hundred thousand dollars may designate some

other person having experience in financial or fiscal matters as treasurer of the district. In addition, the board of directors of an irrigation district which lies entirely within one county may designate some other person having experience in financial or fiscal matters as treasurer of the district if the board has the approval of the county treasurer to designate some other person. If the board designates a treasurer, it shall require a bond with a surety company authorized to do business in the state of Washington in an amount and under the terms and conditions which it finds from time to time will protect the district against loss. The premium on the bond shall be paid by the district. The designated treasurer shall collect and receipt for all irrigation district assessments on lands within the district and shall act with the same powers and duties and be under the same restrictions as provided by law for county treasurers acting in matters pertaining to irrigation districts, except the powers, duties, and restrictions in RCW 87.56.110, 87.56.210, 87.80.180, 87.80.190 and 87.80.200, which shall continue to be those of county treasurers.

In those districts which have designated their own treasurers, the provisions of law pertaining to irrigation districts which require certain acts to be done and which refer to and involve a county treasurer or the office of a county treasurer or the county officers charged with the collection of irrigation district assessments, except RCW 87.56.110, 87.56.210, 87.80.180, 87.80.190 and 87.80.200, shall be construed to refer to and involve the designated district treasurer or the office of the designated district treasurer.

Any claim against the district for which it is liable under existing laws shall be presented to the board as provided in RCW 4.96.020 and upon allowance it shall be attached to a voucher verified by the claimant and approved by the chairman and signed by the secretary and directed to the auditor for payment: *Provided*, That in the event claimant's claim is for crop damage the claimant in addition to filing his claim within the one hundred twenty day limit and in the manner specified in RCW 4.96.020 must file with the secretary of the district, or in his absence one of the directors, not less than three days prior to the severance of the crop alleged to be damaged, a written preliminary notice pertaining to the crop alleged to be damaged. Such preliminary notice, so far as claimant is able, shall advise the district; that the claimant has filed a claim or intends to file a claim against the district for alleged crop damage; shall give the name and present residence of the claimant; shall state the cause of the damage to the crop alleged to be damaged and the estimated amount of damage; and shall accurately locate and describe where the crop alleged to be damaged is located. Such preliminary notice may be given by claimant or by anyone acting in his behalf and need not be verified. No action may be commenced against an irrigation district for crop damages unless claimant has complied with the provisions of RCW 4.96.020 and also with the preliminary notice requirements of this section. [1977 1st ex.s. c 367 § 1; 1969 c 89 § 1; 1967 c 164 § 15; 1961 c 276 § 2. Prior: 1937 c 216 § 1, part; 1929 c 185 § 3, part; 1923 c 138 § 13, part; 1921 c 129 § 23, part; 1913 c 165 § 19, part;

1895 c 165 § 22, part; 1889-90 p 690 § 36, part; RRS § 7453, part. Formerly RCW 87.08.030.]

Purpose—Severability—1967 c 164: See notes following RCW 4.96.010.

Tortious conduct of political subdivisions, municipal corporations and quasi municipal corporations, liability for damages, procedure: Chapter 4.96 RCW.

87.03.490 Local improvement districts—Adoption of plan—Bonds—Form and contents—Facsimile signatures, when, procedure—New lands may be included—Penalty. If decision shall be rendered in favor of the improvement, the board shall enter an order establishing the boundaries of the said improvement district and shall adopt plans for the proposed improvement and determine the number of annual installments not exceeding fifty in which the cost of said improvement shall be paid. The cost of said improvement shall be provided for by the issuance of local improvement district coupon bonds of the district from time to time, therefore, either directly for the payment of the labor and material or for the securing of funds for such purpose, or by the irrigation district entering into a contract with the United States or the state of Washington, or both, to repay the cost of said improvement. Said bonds shall bear interest at a rate not to exceed eight percent per annum, payable semiannually, evidenced by coupons, and shall state upon their face that they are issued as bonds of the irrigation district; that all lands within said local improvement district shall be primarily liable to assessment for the principal and interest of said bonds and that said bonds are also a general obligation of the said district. The bonds may be in such denominations as the board of directors may in its discretion determine, except that bonds other than bond number one of any issue shall be in a denomination that is a multiple of one hundred dollars, and no bond shall be sold for less than par. Any contract entered into for said local improvement by the district with the United States or the state of Washington, or both although all the lands within said local improvement district shall be primarily liable to assessment for the principal and interest thereon, shall be a general obligation of the irrigation district.

No election shall be necessary to authorize the issuance of such local improvement bonds or the entering into of such a contract. Such bonds, when issued, shall be signed by the president and secretary of the irrigation district with the seal of said district affixed and shall be registered by the treasurer of the irrigation district with his seal affixed. The printed, engraved, or lithographed facsimile signatures of the president and secretary of the district's board of directors shall be sufficient signatures on the bonds or coupons: *Provided*, That such facsimile signatures on the bonds may be used only after the filing, by the officer whose facsimile signature is to be used, with the secretary of state of his manual signature certified by him under oath, whereupon that officer's facsimile signature has the same legal effect as his manual signature: *Provided, further*, That either the president of the board of directors' or the secretary's signature on the bonds shall be manually subscribed: *And provided further*, That whenever such facsimile

reproduction of the signature of any officer is used in place of the manual signature of such officer, the district's board of directors shall specify in a written order or requisition to the printer, engraver, or lithographer the number of bonds or coupons upon which such facsimile signature is to be printed, engraved, or lithographed and the manner of numbering the bonds or coupons upon which such signature shall be placed. Within ninety days after the completion of the printing, engraving, or lithographing of such bonds or coupons, the plate or plates used for the purpose of affixing the facsimile signature shall be destroyed, and it shall be the duty of the district's board of directors, within ninety days after receipt of the completed bonds or coupons, to ascertain that such plate or plates have been destroyed. Every printer, engraver, or lithographer who, with the intent to defraud, prints, engraves, or lithographs a facsimile signature upon any bond or coupon without written order of the district's board of directors, or fails to destroy such plate or plates containing the facsimile signature upon direction of such issuing authority, shall be guilty of felony.

The proceeds from the sale of such bonds shall be deposited with the treasurer of the district, who shall place them in a special fund designated "Construction fund of local improvement district number _____."

Whenever such improvement district has been organized, the boundaries thereof may be enlarged to include other lands which can be served or will be benefited by the proposed improvement upon petition of the owners thereof and the consent of the United States or the state of Washington, or both, in the event the irrigation district has contracted with the United States or the state of Washington, or both, to repay the cost of the improvement: *Provided*, That at such time the lands so included shall pay their equitable proportion upon the basis of benefits of the improvement theretofore made by the said local improvement district and shall be liable for the indebtedness of the said local improvement district in the same proportion and same manner and subject to assessment as if said lands had been incorporated in said improvement district at the beginning of its organization. [1977 1st ex.s. c 119 § 2; 1970 ex.s. c 70 § 2; 1921 c 129 § 27; 1919 c 180 § 16; 1917 c 162 § 12; RRS § 7462. Formerly RCW 87.36.040.]

87.03.720 Merger of district with drainage, joint drainage, consolidated drainage improvement, or sewer district—Power to assent. The board of directors of an irrigation district shall, after being notified by the legislative authority of the county or counties within which the irrigation district lies of the filing of the petition therefor, have the power to assent to the proposed merger with the irrigation district of that portion of a drainage improvement district, joint drainage improvement district, consolidated drainage improvement district, or sewer district within its boundaries at a hearing duly called by the board to consider the proposed merger if sufficient objections thereto have not been presented, as hereinafter provided. [1977 1st ex.s. c 208 § 1; 1957 c 94 § 10. Formerly RCW 87.01.240.]

Merger of drainage improvement district with irrigation district: RCW 85.08.830-85.08.890.

87.03.725 Merger of district with drainage, joint drainage, consolidated drainage improvement, or sewer district—Notice—Contents—Publication—Show cause against merger. The secretary of the board of directors shall cause a notice of the proposed merger to be posted and published in the same manner and for the same time as notice of a special election for the issue of bonds. The notice shall state that a petition has been filed with the legislative authority of the county or counties within which the irrigation districts lies by the board of supervisors of the drainage improvement district, joint drainage improvement district, or consolidated drainage improvement district or by the board of commissioners of a sewer district requesting that the drainage improvement district, joint drainage improvement district, consolidated drainage improvement district, or sewer district be merged with the irrigation district or irrigation districts, the names of the petitioners and the prayer thereof, and it shall notify all persons interested in the irrigation district to appear at the office of the board at the time named in the notice, and show cause in writing why the proposed merger should not take place. The time to show cause shall be the regular meeting of the board of directors of the irrigation district next after the expiration of the time for the publication of the notice. [1977 1st ex.s. c 208 § 2; 1957 c 94 § 11. Formerly RCW 87.01.250.]

Official paper for publication: RCW 87.03.020.

Chapter 87.25 CERTIFICATION OF BONDS

Sections

87.25.050 Certificates to be attached to reports.

87.25.050 Certificates to be attached to reports. Attached to said report of said director shall be the following:

(1) A certificate signed by the supervisor of hydraulics certifying to the amount and sufficiency of water rights available for the project.

(2) A certificate signed by a soil expert of the Washington State University, certifying as to the character of the soil and the classification of the lands in the district.

(3) A certificate signed by the supervisor of reclamation approving the general feasibility of the system of irrigation.

(4) A certificate signed by the attorney general of the state of Washington approving the legality of the organization and establishment of the district and the legality of the bond issue offered for certification. [1977 1st ex.s. c 169 § 112; 1923 c 51 § 5; RRS § 7432-5.]

Reviser's note: The devolution of the powers and duties of the supervisor of hydraulics to the department of ecology is traced in the note following the Title 90 title digest.

Severability—Nomenclature—Savings—1977 1st ex.s. c 169: See notes following RCW 28B.10.016.

[1977 RCW Supp—page 810]

Title 88 NAVIGATION AND HARBOR IMPROVEMENTS

Chapters

88.04 Regulation of vessels.
88.16 Pilotage act.

Chapter 88.04 REGULATION OF VESSELS

Sections

88.04.010 through 88.04.260 Repealed. (Effective June 30, 1979.)
88.04.270 Repealed.
88.04.280 Repealed. (Effective June 30, 1979.)

88.04.010 through 88.04.260 Repealed. (Effective June 30, 1979.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

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

88.04.280 Repealed. (Effective June 30, 1979.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 88.16 PILOTAGE ACT

Sections

88.16.005 Legislative declaration of policy and intent.
88.16.010 Board of pilotage commissioners—Created—Chairperson—Members—Terms—Qualifications—Vacancies—Quorum.
88.16.020 Board of pilotage commissioners—Office—Compensation, travel expenses, of members—Employment of personnel.
88.16.030 Repealed.
88.16.035 Board of pilotage commissioners—Powers and duties generally.
88.16.050 Pilotage districts and waters affected.
88.16.070 Vessels exempted and included under chapter—Penalty.
88.16.090 Pilots' licenses—Qualifications—Duration—Annual fee—Written and oral examinations—Physical examinations—Familiarization trips—Penalty.
88.16.100 Pilots' licenses—Revocation, suspension, etc., of—Procedure—Judicial review.
88.16.103 Mandatory rest periods for pilots—Rules—Pilot to refuse assignment, when, report—Penalty.
88.16.105 Size of vessels prescribed for newly licensed pilot—Rules.
88.16.107 Pilots may testify without sanctions for doing so.
88.16.120 Failure to observe pilotage rate—Penalty.
88.16.130 Unlicensed pilot liable for payment of rates—Penalty for refusing to employ licensed pilot.
88.16.150 General penalty—Civil penalty—Jurisdiction—Disposition of fines—Failure to inform of special directions, gross misdemeanor.
88.16.155 Vessel master to make certification before pilotage service offered—Procedure upon refusal—Rules—Penalties—Exception.
88.16.200 Vessel designed to carry liquefied natural or propane gas shall adhere to oil tanker provisions.

88.16.005 Legislative declaration of policy and intent. The legislature finds and declares that it is the policy of the state of Washington to prevent the loss of human lives, loss of property and vessels, and to protect the marine environment of the state of Washington through the sound application of compulsory pilotage provisions in certain of the state waters.

The legislature further finds and declares that it is a policy of the state of Washington to have pilots experienced in the handling of vessels aboard vessels in certain of the state waters with prescribed qualifications and licenses issued by the state.

It is the intent of the legislature to ensure against the loss of lives, loss or damage to property and vessels, and to protect the marine environment through the establishment of a board of pilotage commissioners representing the interests of the people of the state of Washington.

It is the further intent of the legislature not to place in jeopardy Washington's position as an able competitor for waterborne commerce from other ports and nations of the world, but rather to continue to develop and encourage such commerce. [1977 1st ex.s. c 337 § 1.]

Severability—1977 1st ex.s. c 337: "If any provision of this 1977 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." [1977 1st ex.s. c 337 § 18.] This applies to RCW 88.16.005, 88.16.010, 88.16.020, 88.16.035, 88.16.050, 88.16.070, 88.16.090, 88.16.100, 88.16.103, 88.16.105, 88.16.107, 88.16.120, 88.16.130, 88.16.150, 88.16.155 and 88.16.200, and to the repeal of RCW 88.16.030.

88.16.010 Board of pilotage commissioners—Created—Chairperson—Members—Terms—Qualifications—Vacancies—Quorum. (1) The board of pilotage commissioners of the state of Washington is hereby created and shall consist of the secretary of the department of transportation of the state of Washington, or the secretary's designee who shall be an employee of the department of transportation, who shall be chairperson, and six members appointed by the governor and confirmed by the senate. Each of said appointed commissioners shall be appointed for a term of four years from the date of said member's commission. No person shall be eligible for appointment to said board unless that person is at the time of appointment eighteen years of age or over and a citizen of the United States and of the state of Washington. Two of said appointed commissioners shall be pilots licensed under this chapter and actively engaged in piloting upon the waters covered by this chapter for at least three years immediately preceding the time of appointment. Two of said appointed commissioners shall be actively engaged in the ownership, operation, or management of deep sea cargo and/or passenger carrying vessels for at least three years immediately preceding the time of appointment. One of said shipping commissioners shall be a representative of American and one of foreign shipping. The remaining commissioners shall be persons interested in and concerned with pilotage, maritime safety, and marine affairs, with broad experience related to the maritime industry exclusive of experience as either a state licensed pilot or as a shipping representative.

(2) Pilotage commissioners holding commissions on September 21, 1977, shall continue to hold their office subject to reappointment by the governor and confirmation by the senate. The appointed commissioners shall continue to hold office for the period for which they are appointed and until their successors are appointed and qualified, except that the governor when first appointing commissioners after September 21, 1977, shall appoint the pilot representatives to terms of two and three years respectively, the shipping representatives to terms of two and three years respectively, and the remaining commissioners to terms of three and four years respectively. Any vacancy in an appointed position on the board shall be filled by the governor for a term of four years, subject to confirmation by the senate.

(3) Five members of the board shall constitute a quorum. All commissioners and the chairperson shall have a vote. [1977 1st ex.s. c 337 § 2; 1977 1st ex.s. c 151 § 73; 1971 ex.s. c 292 § 58; 1935 c 18 § 1; RRS § 9871-1. Prior: 1888 p 175 § 1.]

Severability—1977 1st ex.s. c 337: See note following RCW 88.16.005.

Federal requirements—Severability—1977 1st ex.s. c 151: See RCW 47.98.070 and 47.98.080.

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

88.16.020 Board of pilotage commissioners—Office—Compensation, travel expenses, of members—Employment of personnel. The department of transportation of the state of Washington shall be the office of the board and all records shall be kept in said office. Each pilotage commissioner shall receive the sum of forty dollars per day for each day actually engaged in the conduct of the business of the board, together with travel expenses, in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, to be paid out of the pilotage account on vouchers approved by the chairperson of the board: *Provided*, That the sums received under this section shall not be considered compensation earnable as defined pursuant to RCW 41.40.010(8).

The board is authorized to employ personnel, pursuant to chapter 41.06 RCW, as necessary to conduct the business of the board. [1977 1st ex.s. c 337 § 3; 1977 1st ex.s. c 151 § 74; 1975-'76 2nd ex.s. c 34 § 178; 1967 c 15 § 1; 1941 c 184 § 1; 1935 c 18 § 2; RRS § 9871-2.]

Severability—1977 1st ex.s. c 337: See note following RCW 88.16.005.

Federal requirements—Severability—1977 1st ex.s. c 151: See RCW 47.98.070 and 47.98.080.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

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

88.16.035 Board of pilotage commissioners—Powers and duties generally. The board of pilotage commissioners shall:

(1) Adopt rules, pursuant to chapter 34.04 RCW as now existing or hereafter amended, necessary for the enforcement and administration of this chapter. Rules in

effect on September 21, 1977, with the exception of those rules pertaining to pilot qualifications shall remain in force and effect until amended, repealed, or replaced by the board, except that such rules as are inconsistent with the provisions of RCW 88.16.005, 88.16.010, 88.16.020, 88.16.035, 88.16.050, 88.16.070, 88.16.090, 88.16.103, 88.16.105, 88.16.150 and 88.16.155 are hereby repealed;

(2) License pilot applicants meeting the qualifications and passing the examination as provided for in RCW 88.16.090 as now or hereafter amended and to establish additional training requirements as required to maintain a competent pilotage service;

(3) Maintain a register of pilots, records of pilot accidents and other history pertinent to pilotage, along with a roster of vessels, agents, owners, operators, and masters necessary for the maintenance of a roster of persons interested in and concerned with pilotage and maritime safety;

(4) To annually fix the pilotage tariffs for pilotage services performed aboard vessels as required by this chapter: *Provided*, That the board may fix extra compensation for extra services to vessels in distress, for awaiting vessels, or for being carried to sea on vessels against the will of the pilot, and for such other services as may be determined by the board;

(5) To file annually with the governor, the secretary of the senate, and the chief clerk of the house of representatives a report which includes, but is not limited to, the following: The number, names, addresses, ages, pilot license number, and years of service as a Washington licensed pilot of any person licensed by the board as a Washington state pilot; the names, employment, and other information of the members of the board; the total number of pilotage assignments by pilotage district, including information concerning the various types and sizes of vessels and the total annual tonnage; the annual earnings of individual pilots before and after deduction for expenses of pilot organizations, including extra compensation as a separate category; the annual expenses of private pilot associations, including personnel employed and capital expenditures; the status of pilotage tariffs, extra compensation, and travel; the retirement contributions paid to pilots and the disposition thereof; the number of accidents, groundings, mishaps, or other incidents which are reported to or investigated by the board, including the vessel name, location of incident, pilot's name, and disposition of the case together with information received before the board acted from all persons concerned, including the United States coast guard; the disposition and listing of all complaints filed by any person against any pilot or by any pilot against any other person or organization; the names, qualifications, time scheduled for examinations, and the district of persons desiring to apply for Washington state pilotage licenses; summaries of dispatch records, quarterly reports from pilots, and the bylaws and operating rules of pilotage organizations; the names, sizes in deadweight tons, surcharges, if any, port of call, name of the pilot, and names and horsepower of tug boats for any and all oil tankers subject to the provisions of RCW 88.16.170 through 88.16.190 together with the names of any and

all vessels for which the United States coast guard requires special handling pursuant to their authority under the Ports and Waterways Safety Act of 1972; the expenses of the board; and any and all other information which the board deems appropriate to include;

(6) Publish a manual which includes the pilotage act and other statutes of Washington state and the federal government which affect pilotage, including the rules of the board, together with such additional information as may be informative for pilots, agents, owners, operators, and masters. Such manual shall be distributed without cost to all pilots and governmental agencies upon request. All other copies shall be sold for a five dollar fee with proceeds to be credited to the pilotage account;

(7) Provide for the maintenance of efficient and competent pilotage service on all waters covered by this chapter; and do such other things as are reasonable, necessary, and expedient to insure proper and safe pilotage upon the waters covered by this chapter and facilitate the efficient administration of this chapter. [1977 1st ex.s. c 337 § 4.]

Severability—1977 1st ex.s. c 337: See note following RCW 88.16.005.

88.16.050 Pilotage districts and waters affected.

This chapter shall apply to the pilotage districts of this state as hereinafter defined:

(1) "Puget Sound pilotage district", whenever used in this chapter, shall be construed to mean and include all the waters of the state of Washington inside the international boundary line between the state of Washington, the United States and the province of British Columbia, Canada and east of one hundred twenty-three degrees twenty-four minutes west longitude.

(2) "Grays Harbor and Willapa Bay pilotage district" shall include all inland waters, channels, waterways, and navigable tributaries within each area. The boundary line between inland waters and the high seas shall be designated as the outermost sea buoy as established and placed for Grays Harbor and Willapa Bay. [1977 1st ex.s. c 337 § 5; 1971 ex.s. c 297 § 2; 1967 c 15 § 2; 1935 c 18 § 3; RRS § 9871-3.]

Severability—1977 1st ex.s. c 337: See note following RCW 88.16.005.

88.16.070 Vessels exempted and included under chapter—Penalty.

All vessels under enrollment and all United States and Canadian vessels engaged exclusively in the coasting trade on the west coast of the continental United States (including Alaska) and/or British Columbia shall be exempt from the provisions of this chapter unless a pilot licensed under this chapter be actually employed, in which case the pilotage rates provided for in this chapter shall apply. Every vessel not so exempt, shall while navigating the Puget Sound and Grays Harbor and Willapa Bay pilotage districts, employ a pilot licensed under the provisions of this chapter and shall be liable for and pay pilotage rates in accordance with the pilotage rates herein established or which may hereafter be established under the provisions of this chapter: *Provided*, That any vessel inbound to or

outbound from Canadian ports is exempt from the provisions of this section, if said vessel actually employs a pilot licensed by the Pacific pilotage authority (the pilot licensing authority for the western district of Canada), and if it is communicating with the vessel traffic system and has appropriate navigational charts, and if said vessel uses only those waters east of the international boundary line which are west of a line which begins at the southwestern edge of Point Roberts then to Alden Point (Patos Island), then to Skipjack Island light, then to Turn Point (Stuart Island), then to Kellet Bluff (Henry Island), then to Lime Kiln (San Juan Island) then to the intersection of one hundred twenty-three degrees seven minutes west longitude and forty-eight degrees twenty-five minutes north latitude then to the international boundary. The board shall correspond with the Pacific pilotage authority from time to time to ensure the provisions of this section are enforced. If any exempted vessel does not comply with these provisions it shall be deemed to be in violation of this section and subject to the penalties provided in RCW 88.16.150 as now or hereafter amended and liable to pilotage fees as determined by the board. The board shall investigate any accident on the waters covered by this chapter involving a Canadian pilot and shall include the results in its annual report. [1977 1st ex.s. c 337 § 6; 1971 ex.s. c 297 § 3; 1967 c 15 § 3; 1935 c 18 § 4; RRS § 9871-4.]

Severability—1977 1st ex.s. c 337: See note following RCW 88.16.005.

88.16.090 Pilots' licenses—Qualifications—Duration—Annual fee—Written and oral examinations—Physical examinations—Familiarization trips—Penalty. (1) No person shall pilot any vessel subject to the provisions of this chapter on waters covered by this chapter unless such a person be appointed and licensed to pilot such vessels on said waters under and pursuant to the provisions of this chapter.

(2) No person shall be eligible to be appointed a pilot unless such a person is a citizen of the United States, over the age of twenty-five years and a resident of the state of Washington at the time of appointment, nor unless the pilot applicant holds a United States government masters license and a first class United States endorsement without restrictions on that license to pilot in whichever pilotage districts for which the pilot applicant desires to be licensed.

(3) Pilots shall be licensed hereunder for a term of five years from and after the date of the issuance of their respective state licenses. Such licenses shall thereafter be renewed as of course, unless the board shall withhold same for good cause. Each pilot shall pay to the state treasurer an annual license fee of two hundred fifty dollars to be placed in the state treasury to the credit of the pilotage account.

(4) Pilot applicants shall be required to pass a written and oral examination administered and graded by the board which shall test such applicants on this chapter, the rules of the board, local harbor ordinances, and such other matters as may be required to compliment the United States examinations and qualifications.

(5) On and after September 21, 1977, the board shall have developed five examinations and grading sheets for the testing and grading of pilot applicants. The five examinations shall be administered to pilot applicants on a random basis and shall be updated as required to reflect changes in law, rules, policies, or procedures. The board may appoint a special independent examination committee or may contract with a firm knowledgeable and experienced in the development of professional tests for development of said examinations. Active licensed state pilots may be consulted for the general development of examinations but shall have no knowledge of the specific questions. The pilot members of the board may participate in the grading of examinations. If the board does appoint a special examination development committee it is authorized to pay the members of said committee the same per diem costs and travel expenses as received by members of the board. When grading examinations the board shall carefully follow the grading sheet prepared for that examination. The board shall develop a "sample examination" which would tend to indicate to an applicant the general types of questions on pilot examinations, but such sample questions shall not appear on any actual examinations. Any person who wilfully gives advance knowledge of information contained on a pilot examination shall be guilty of a gross misdemeanor.

(6) All pilots and applicants shall be subject to an annual physical examination by a physician chosen by the board. The physician shall examine the applicant's heart, blood pressure, circulatory system, lungs and respiratory system, eyesight, hearing, and such other items as may be prescribed by the board. After consultation with a physician and the United States coast guard, the board shall establish minimum health standards to ensure that pilots licensed by the state are able to perform their duties.

(7) The board shall prescribe, pursuant to chapter 34.04 RCW, a number of familiarization trips, between a minimum number of twenty-five and a maximum of one hundred, which pilot applicants must make in the pilotage district for which they desire to be licensed. Familiarization trips any particular applicant must make are to be based upon the applicant's vessel handling experience. [1977 1st ex.s. c 337 § 7; 1967 c 15 § 5; 1935 c 18 § 8; RRS § 9871-8. Prior: 1907 c 147 § 1; 1888 p 176 § 8.]

Severability—1977 1st ex.s. c 337: See note following RCW 88.16.005.

88.16.100 Pilots' licenses—Revocation, suspension, etc., of—Procedure—Judicial review. The board shall have power on its own motion or, in its discretion, upon the written request of any interested party, to investigate the performance of pilotage services subject to this chapter and to suspend, withhold or revoke the license of any pilot for misconduct, incompetency, inattention to duty, intoxication or failure to perform his duties under this chapter, or violation of any of the rules or regulations provided by the board for the government of pilots. When the board determines that reasonable cause exists to suspend, revoke, or withhold any pilot's

license it shall forthwith prepare and personally serve upon such pilot a notice advising him of the board's intended action, the specific grounds therefor, and the right to request a hearing to challenge the board's action. The pilot shall have thirty days from the date on which notice is served to request a full hearing before a hearing officer on the issue of suspension, revocation, or withholding of his pilot's license. The board's proposed suspension, revocation, or withholding of a license shall become final upon the expiration of thirty days from the date notice is served, unless a hearing has been requested prior to that time. When a hearing is requested the board shall appoint a hearing officer who shall be an active member of the Washington state bar association and, in the opinion of the board, has sufficient experience and familiarity with pilotage matters to be able to conduct a fair and impartial hearing. The hearing shall be governed by the provisions of chapter 34.04 RCW. All final decisions of the hearing officer shall be subject to review by the superior court of the state of Washington for Thurston county or by the superior court of the county in which the pilot maintains his residence or principal place of business, to which court any case with all the papers and proceedings therein shall be immediately certified by the hearing officer if requested to do so by any party to the proceedings at any time within thirty days after the date of any such final decision. No appeal may be taken after the expiration of thirty days after the date of final decision. Any case so certified to the superior court shall be tried de novo and after certification of the record to said superior court the proceedings shall be had as in a civil action. [1977 1st ex.s. c 337 § 12; 1971 ex.s. c 297 § 4; 1935 c 18 § 13; RRS § 9871-13. Prior: 1888 p 178 § 10.]

Severability—1977 1st ex.s. c 337: See note following RCW 88.16.005.

88.16.103 Mandatory rest periods for pilots—Rules—Pilot to refuse assignment, when, report—Penalty. (1) Pilots, after completion of an assignment or assignments which are seven hours or longer in duration, shall receive a mandatory rest period of seven hours.

(2) A pilot shall refuse a pilotage assignment if said pilot is physically or mentally fatigued or if said pilot has a reasonable belief that the assignment cannot be carried out in a competent and safe manner. Upon refusing an assignment as herein provided a pilot shall submit a written explanation to the board. If the board finds that the pilot's written explanation is without merit, or reasonable cause did not exist for the assignment refusal, such pilot may be subject to the provisions of RCW 88.16.100 as now existing or hereafter amended.

(3) The board shall quarterly review the dispatch records of pilot organizations or pilot's quarterly reports to ensure the provisions of this section are enforced. The board may prescribe rules for rest periods pursuant to chapter 34.04 RCW. [1977 1st ex.s. c 337 § 9.]

Severability—1977 1st ex.s. c 337: See note following RCW 88.16.005.

88.16.105 Size of vessels prescribed for newly licensed pilot—Rules. The board shall prescribe, pursuant to chapter 34.04 RCW, rules governing the size of vessels which a newly licensed pilot may be assigned to pilot on the waters of this state. Such rules shall be only for the first two year period in which pilots are actually employed. [1977 1st ex.s. c 337 § 10.]

Severability—1977 1st ex.s. c 337: See note following RCW 88.16.005.

88.16.107 Pilots may testify without sanctions for doing so. Any pilot licensed pursuant to this chapter may appear or testify before the legislature or board of pilotage commissioners and no person shall place any sanction against said pilot for having testified or appeared. [1977 1st ex.s. c 337 § 15.]

Severability—1977 1st ex.s. c 337: See note following RCW 88.16.005.

88.16.120 Failure to observe pilotage rate—Penalty. No pilot shall charge, collect or receive and no person, firm, corporation or association shall pay for pilotage or other services performed hereunder any greater, less or different amount, directly or indirectly, than the rates or charges herein established or which may be hereafter fixed by the board pursuant to this chapter. Any pilot, person, firm, corporation or association violating the provisions of this section shall be guilty of a misdemeanor and shall be punished pursuant to RCW 88.16.150 as now or hereafter amended, said prosecution to be conducted by the prosecuting attorney of any county wherein the offense or any part thereof was committed. [1977 1st ex.s. c 337 § 13; 1967 c 15 § 4; 1935 c 18 § 6; RRS § 9871-6.]

Severability—1977 1st ex.s. c 337: See note following RCW 88.16.005.

88.16.130 Unlicensed pilot liable for payment of rates—Penalty for refusing to employ licensed pilot. Any person not holding a license as pilot under the provisions of this chapter who pilots any vessel subject to the provisions of this chapter on waters covered by this chapter shall pay to the board the pilotage rates payable under the provisions of this chapter. Any master or owner of a vessel required to employ a pilot licensed under the provisions of this chapter who refuses to do so when such a pilot is available shall be punished pursuant to RCW 88.16.150 as now or hereafter amended and shall be imprisoned in the county jail of the county wherein he is so convicted until said fine and the costs of his prosecution are paid. [1977 1st ex.s. c 337 § 14; 1967 c 15 § 8; 1935 c 18 § 11; RRS § 9871-11. Prior: 1907 c 147 § 4.]

Severability—1977 1st ex.s. c 337: See note following RCW 88.16.005.

88.16.150 General penalty—Civil penalty—Jurisdiction—Disposition of fines—Failure to inform of special directions, gross misdemeanor. (1) In all cases where no other penalty is prescribed in this chapter, any violation of this chapter or of any rule or

regulation of the board shall be punished as a gross misdemeanor, and all violations may be prosecuted in any court of competent jurisdiction in any county where the offense or any part thereof was committed. In any case where the offense was committed upon a ship, boat or vessel, and there is doubt as to the proper county, the same may be prosecuted in any county through any part of which the ship, boat or vessel passed, during the trip upon which the offense was committed. All fines collected for any violation of this chapter or any rule or regulation of the board shall within thirty days be paid by the official collecting the same to the state treasurer and shall be credited to the pilotage account: *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.

(2) Notwithstanding any other penalty imposed by this section, any person who shall violate the provisions of this chapter, shall be liable to a maximum civil penalty of five thousand dollars. The board may request the prosecuting attorney of the county in which any violation of this chapter occurs to bring an action for imposing the civil penalties provided for in this subsection.

Moneys collected from civil penalties shall be deposited in the pilotage account.

(3) Any master of a vessel who shall knowingly fail to inform the pilot dispatched to said vessel or any agent, owner, or operator, who shall knowingly fail to inform the pilot dispatcher, or any dispatcher who shall knowingly fail to inform the pilot actually dispatched to said vessel of any special directions mandated by the coast guard captain of the port under authority of the Ports and Waterways Safety Act of 1972, as amended, for the handling of such vessel shall be guilty of a gross misdemeanor. [1977 1st ex.s. c 337 § 8; 1969 ex.s. c 199 § 41; 1967 c 15 § 7; 1935 c 18 § 10; RRS § 9871-10. Prior: 1888 p 179 § 27.]

Severability—1977 1st ex.s. c 337: See note following RCW 88.16.005.

88.16.155 Vessel master to make certification before pilotage service offered—Procedure upon refusal—Rules—Penalties—Exception. (1) The master of any vessel which employs a Washington licensed pilot shall certify on a form prescribed by the board of pilotage commissioners that the vessel complies with:

(a) Such provisions of the United States coast guard regulations governing the safety and navigation of vessels in United States waters, as codified in Title 33 of the code of federal regulations, as the board may prescribe; and

(b) The provisions of current international agreements governing the safety, radio equipment, and pollution of vessels and other matters as ratified by the United States Senate and prescribed by the board.

(2) The master of any vessel which employs a Washington licensed pilot shall be prepared to produce, and any Washington licensed pilot employed by a vessel shall request to see, certificates of the vessel which certify and indicate that the vessel complies with subsection

(1) of this section and the rules of the board promulgated pursuant to subsection (1) of this section.

(3) If the master of a vessel which employs a Washington licensed pilot cannot certify that the vessel complies with subsection (1) of this section and the rules of the board adopted pursuant to subsection (1) of this section, the master shall certify that:

(a) The vessel will comply with subsection (1) of this section before the time the vessel is scheduled to leave the waters of Washington state; and

(b) The coast guard captain of the port was notified of the noncomplying items when they were determined; and

(c) The coast guard captain of the port has authorized the vessel to proceed under such conditions as prescribed by the coast guard pursuant to its authority under federal statutes and regulations.

(4) After the board has prescribed the form required under subsection (1) of this section, no Washington licensed pilot shall offer pilotage services to any vessel on which the master has failed to make a certification required by this section. If the master fails to make a certification the pilot shall:

(a) Disembark from the vessel as soon as practicable; and

(b) Immediately inform the port captain of the conditions and circumstances by the best possible means; and

(c) Forward a written report to the board no later than twenty-four hours after disembarking from the vessel.

(5) Any Washington licensed pilot who offers pilotage services to a vessel on which the master has failed to make a certification required by this section or the rules of the board adopted under this section shall be subject to RCW 88.16.150, as now or hereafter amended, and RCW 88.16.100, as now or hereafter amended.

(6) The board shall revise the requirements enumerated in this section as necessary to reflect changes in coast guard regulations, federal statutes, and international agreements. All actions of the board under this section shall comply with chapters 34.04 and 42.30 RCW. The board shall prescribe the time of and method for retention of forms which have been signed by the master of a vessel in accordance with the provisions of this section.

(7) This section shall not apply to the movement of dead ships. The board shall prescribe pursuant to chapter 34.04 RCW, after consultation with the coast guard and interested persons, for the movement of dead ships and the certification process thereon. [1977 1st ex.s. c 337 § 11.]

Severability—1977 1st ex.s. c 337: See note following RCW 88.16.005.

88.16.200 Vessel designed to carry liquefied natural or propane gas shall adhere to oil tanker provisions. Any vessel designed for the purpose of carrying as its cargo liquefied natural or propane gas shall adhere to the provisions of RCW 88.16.190(2) as though it was an oil tanker. [1977 1st ex.s. c 337 § 16.]

Severability—1977 1st ex.s. c 337: See note following RCW 88.16.005.

Title 89
RECLAMATION, SOIL CONSERVATION
AND LAND SETTLEMENT

Chapters

89.16 Reclamation by state.

Chapter 89.16
RECLAMATION BY STATE

Sections

89.16.050 Powers and duties of director of ecology.

89.16.050 Powers and duties of director of ecology.

In carrying out the purposes of this chapter, the director of the department of ecology of the state of Washington shall be authorized and empowered:

To make surveys and investigations of the wholly or partially unreclaimed and undeveloped lands in this state and to determine the relative agricultural values, productivity and uses, and the feasibility and cost of reclamation and development thereof;

To formulate and adopt a sound policy for the reclamation and development of the agricultural resources of the state, and from time to time select for reclamation and development such lands as may be deemed advisable, and the director may in his discretion advise as to the formation and assist in the organization of reclamation districts under the laws of this state;

To purchase the bonds of any reclamation district whose project is approved by the director and which is found to be upon a sound financial basis, to contract with any such district for making surveys and furnishing engineering plans and supervision for the construction of its project, or for constructing or completing its project and to advance money to the credit of the district for any or all of such purposes, and to accept the bonds, coupon notes or coupon warrants of such district in payment therefor, and to expend the moneys appropriated from the reclamation account in the purchase of such bonds, notes or warrants or in carrying out such contracts: *Provided*, That interest not to exceed the annual rate provided for in the bonds, notes or warrants agreed to be purchased, shall be charged and received for all moneys advanced to the district prior to the delivery of the bonds, notes or warrants and the amount of such interest shall be included in the purchase price of such bonds, notes or warrants: *Provided further*, That no district, the bonds, notes or warrants of which have been purchased by the state under the provisions of the state reclamation act, shall thereafter during the life of said bonds, notes or warrants make expenditures of any kind from the bond or coupon warrant funds of the district or incur obligations chargeable against such funds or issue any additional coupon notes without previous written approval of the director of ecology of the state of Washington, and any obligations incurred without such approval shall be void;

To sell and dispose of any reclamation district bonds acquired by the director, at public or private sale, and to

pay the proceeds of such sale into the reclamation account: *Provided*, That such bonds shall not be sold for less than the purchase price plus accrued interest, except in case of a sale to an agency supplied with money by the United States of America, or to the United States of America in furtherance of refunding operations of any irrigation district, diking or drainage district, or diking or drainage improvement district, now pending or hereafter carried on by such district, in which case the director shall have authority to sell any bonds of such district owned by the state of Washington under the provisions of the state reclamation act, to the United States of America, or other federal agency on such terms as said United States of America, or other federal agency shall prescribe for bonds of the same issue of such district as that held by the state of Washington in connection with such refunding operations;

To borrow money upon the security of any bonds, including refunding bonds, of any reclamation district, acquired by the director, on such terms and rate of interest and over such period of time as the director may see fit, and to hypothecate and pledge reclamation district bonds or refunding bonds acquired by the director as security for such loan. Such loans shall have, as their sole security, the bonds so pledged and the revenues therefrom, and the director shall not have authority to pledge the general credit of the state of Washington: *Provided*, That in reloading any money so borrowed, or obtained from a sale of bonds it shall be the duty of the director to fix such rates of interest as will prevent impairment of the reclamation revolving account;

To purchase delinquent general tax or delinquent special assessment certificates chargeable against lands included within any reclamation district obligated to the state under the provisions of the state reclamation act, and to purchase lands included in such districts and placed on sale on account of delinquent taxes or delinquent assessments with the same rights, privileges and powers with respect thereto as a private holder and owner of said certificates, or as a private purchaser of said lands: *Provided*, That the director shall be entitled to a delinquent tax certificate upon application to the proper county treasurer therefor without the necessity of a resolution of the board of county commissioners authorizing the issuance of certificates of delinquency required by law in the case of the sale of such certificates to private purchasers;

To sell said delinquent certificates or the lands acquired at sale on account of delinquent taxes or delinquent assessments at public or private sale, and on such conditions as the director shall determine;

To, whenever the director shall deem it advisable, require any district with which he may contract, to provide such safeguards as he may deem necessary to assure bona fide settlement and development of the lands within such district, by securing from the owners of lands therein agreements to limit the amount of their holdings to such acreage as they can properly farm and to sell their excess land holdings at reasonable prices;

To employ all necessary experts, assistants and employees and fix their compensation and to enter into

any and all contracts and agreements necessary to carry out the purposes of this chapter;

To have the assistance, cooperation and services of, and the use of the records and files in, all the departments and institutions of the state, particularly the office of the commissioner of public lands, the state department of agriculture, Washington State University, and the University of Washington; and all state officers and the governing authorities of all state institutions are hereby authorized and directed to cooperate with the director in furthering the purpose of this chapter;

To cooperate with the United States in any plan of land reclamation, land settlement or agricultural development which the congress of the United States may provide and which may effect the development of agricultural resources within the state of Washington, and the director shall have full power to carry out the provisions of any cooperative land settlement act that may be enacted by the United States. [1977 c 75 § 93; 1972 ex.s. c 51 § 5; 1943 c 279 § 1; 1935 c 7 § 1; 1933 ex.s. c 13 § 1; 1923 c 132 § 1; 1919 c 158 § 5; RRS § 3008.]

Severability—1933 ex.s. c 13: "The adjudication of invalidity of any section, clause, or part of a section of this act, shall not impair or otherwise affect the validity of the act as a whole or any part thereof." [1933 ex.s. c 13 § 6.] This applies to RCW 89.16.050 and 90.04.040.

Title 90

WATER RIGHTS—ENVIRONMENT

Chapters

90.03	Water code—1917 act.
90.08	Stream patrolmen.
90.48	Water pollution control.
90.54	Water resources act of 1971.
90.58	Shoreline management act of 1971.
90.62	Environmental coordination procedures act.
90.66	Family farm water act.

Chapter 90.03

WATER CODE—1917 ACT

Sections

90.03.120	Determination of water rights—Order—Summons—Necessary parties.
90.03.130	Determination of water rights—Service of summons.
90.03.150	Determination of water rights—Guardian ad litem for defendant.

90.03.120 Determination of water rights—Order—Summons—Necessary parties. Upon the filing of the statement and map as provided in RCW 90.03.110 the judge of such superior court shall make an order directing summons to be issued, and fixing the return day thereof, which shall be not less than sixty nor more than ninety days, after the making of such order: *Provided*, That for good cause, the court, at the request of the supervisor, may modify said time period. A summons shall thereupon be issued out of said superior

court, signed and attested by the clerk thereof, in the name of the state of Washington, as plaintiff, against all known persons claiming the right to divert the water involved and also all persons unknown claiming the right to divert the water involved, which said summons shall contain a brief statement of the objects and purpose of the proceedings and shall require the defendants to appear on the return day thereof, and make and file a statement of claim to, or interest in, the water involved and a statement that unless they appear at the time and place fixed and assert such right, judgment will be entered determining their rights according to the evidence: *Provided, however*, That any persons claiming the right to the use of water by virtue of a contract with claimant to the right to divert the same, shall not be necessary parties to the proceeding. [1977 1st ex.s. c 357 § 1; 1917 c 117 § 15; RRS § 7365. Formerly RCW 90.12.020.]

90.03.130 Determination of water rights—Service of summons. Service of said summons shall be made in the same manner and with the same force and effect as service of summons in civil actions commenced in the superior courts of the state: *Provided*, That for good cause, the court, at the request of the supervisor, may authorize service of summons to be made by certified mail, with acknowledgment of receipt of summons executed by defendant required, as an alternative to personal service. If the defendants, or either of them, cannot be found within the state of Washington, of which the return of the sheriff of the county in which the proceeding is pending shall be prima facie evidence, upon the filing of an affidavit by the supervisor of water resources, or his attorney, in conformity with the statute relative to the service of summons by publication in civil actions, such service may be made by publication in a newspaper of general circulation printed and published at the county seat of the county in which such proceeding is pending, and also publication of said summons in a newspaper published at the county seat of each county in which any portion of the water is situated, once a week for six consecutive weeks (six publications), before the return day thereof. In cases where personal service can be had, such summons shall be served at least twenty days before the return day thereof.

Personal service of summons may be made by department of ecology employees for actions pertaining to water rights. [1977 1st ex.s. c 357 § 2; 1929 c 122 § 1; 1917 c 117 § 16; RRS § 7366. Formerly RCW 90.12.030.]

Commencement of actions (service of summons): Chapter 4.28 RCW.

Manner of publication and form of summons: RCW 4.28.110.

Service of summons by publication—When authorized: RCW 4.28.100.

90.03.150 Determination of water rights—Guardian ad litem for defendant. Whenever any defendant in any proceeding instituted under this chapter is an infant, or an alleged incompetent or disabled person for whom the court has not yet appointed either a guardian or a limited guardian, the court shall appoint a guardian

ad litem for such minor or alleged incompetent or disabled defendant. [1977 1st ex.s. c 80 § 75; 1917 c 117 § 18; RRS § 7368. Formerly RCW 90.12.050.]

Purpose—Intent—Severability—1977 1st ex.s. c 80: See notes following RCW 4.16.190.

Guardian ad litem for infant: RCW 4.08.050.

Guardian ad litem for insane person: RCW 4.08.060.

Chapter 90.08

STREAM PATROLMEN

Sections

90.08.040	Stream patrolmen—Appointment—Powers.
90.08.050	Stream patrolmen—Compensation, travel expenses.
90.08.060	Stream patrolmen—Users to share in payment of compensation.
90.08.070	Right of county to sue user for unpaid share of expenses.

90.08.040 Stream patrolmen—Appointment—Powers. Where water rights of a stream have been adjudicated a stream patrolman shall be appointed by the director of the department of ecology upon application of water users having adjudicated water rights in each particular water resource making a reasonable showing of the necessity therefor, which application shall have been approved by the district water master if one has been appointed, at such time, for such stream, and for such periods of service as local conditions may indicate to be necessary to provide the most practical supervision and to secure to water users and owners the best protection in their rights.

The stream patrolman shall have the same powers as a water master appointed under RCW 90.03.060, but his district shall be confined to the regulation of waters of a designated stream or streams. Such patrolman shall be under the supervision of the director or his designated representative. He shall also enforce such special rules and regulations as the director may prescribe from time to time. [1977 c 22 § 1; 1925 ex.s. c 162 § 1; RRS § 7351-1.]

Water masters

appointment, compensation: RCW 90.03.060.

duties: RCW 90.03.070.

power of arrest: RCW 90.03.090.

90.08.050 Stream patrolmen—Compensation, travel expenses. Each stream patrolman shall receive a wage per day for each day actually employed in the duties of his office, or if employed by the month, he shall receive a salary per month, which wage or salary shall be fixed in the manner provided by law for the fixing of the salaries or compensation of other state officers or employees, plus travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, to be paid by the county in which the work is performed. In case the service extends over more than one county, each county shall pay its equitable part of such wage to be apportioned by the director. He shall be reimbursed for actual necessary expenses when absent from his designated headquarters in the performance of his duties, such expense to be paid by the county in which he renders the service. The accounts of the stream

patrolman shall be audited and certified by the director and the county auditor shall issue a warrant therefor upon the current expense fund. [1977 c 22 § 2; 1975-'76 2nd ex.s. c 34 § 180; 1947 c 123 § 1; 1925 ex.s. c 162 § 2; Rem. Supp. 1947 § 7351-2.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Public officers, salaries and fees: Chapter 42.16 RCW.

State government, salaries and expenses: Chapter 43.03 RCW.

90.08.060 Stream patrolmen—Users to share in payment of compensation. The salary of the stream patrolman shall be borne by the water users receiving the benefits and shall be paid to the county or counties in the following manner:

The county or counties may assess each water user for his proportionate share of the total stream patrolman expense in the same ratio that the amount of water diverted by him bears to the total amount diverted from the stream during each season, on an annual basis, to recover all such county expenses. The stream patrolman shall keep an accurate record of the amount of water diverted by each water user coming under his supervision. On the first of each month the stream patrolman shall present his record of water diversion to the county or counties for the preceding month. Where the water users are organized into an irrigation district or water users' association, such organization may enter into an agreement with the county or counties for direct payment to the stream patrolman in order to minimize administrative costs. [1977 c 22 § 3; 1925 ex.s. c 162 § 3; RRS § 7351-3.]

Irrigation districts generally: Chapter 87.03 RCW.

90.08.070 Right of county to sue user for unpaid share of expenses. Upon failure of any water user to pay his proportionate share of the expense referred to in RCW 90.08.050 and 90.08.060, the county or counties shall be entitled to sue for and recover any such unpaid portion in any court of competent jurisdiction. [1977 c 22 § 4; 1925 ex.s. c 162 § 4; RRS § 7351-4.]

Chapter 90.48

WATER POLLUTION CONTROL

Sections

90.48.295 Repealed.

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

Chapter 90.54

WATER RESOURCES ACT OF 1971

Sections

90.54.070

Reports to legislature.

90.54.090

State, local governments, municipal corporations to comply with chapter—Report to legislature of failures.

90.54.070 Reports to legislature. The department shall report to the legislature:

(1) On the experience of the department, including the progress made and any difficulties encountered, in formulating, adopting, and maintaining a state management program for water resources as provided in RCW 90.54.040(1), and

(2) Make recommendations on legislation necessary to meet these objectives. [1977 c 75 § 94; 1971 ex.s. c 225 § 7.]

90.54.090 State, local governments, municipal corporations to comply with chapter—Report to legislature of failures. All agencies of state and local government, including counties and municipal and public corporations, shall, whenever possible, carry out powers vested in them in manners which are consistent with the provisions of this chapter. The director of the department of ecology shall submit a report to the legislature at least annually noting any failures by such agencies to comply with the mandate of this section, and the circumstances surrounding such failure. [1977 c 75 § 95; 1971 ex.s. c 225 § 10.]

Chapter 90.58

SHORELINE MANAGEMENT ACT OF 1971

Sections

90.58.140 Development permits—Grounds for granting—Administration by local government, conditions—Applications—Notices—Rescission—When permits not required—Approval when permit for variance or conditional use.

90.58.140 Development permits—Grounds for granting—Administration by local government, conditions—Applications—Notices—Rescission—When permits not required—Approval when permit for variance or conditional use. (1) No development shall be undertaken on the shorelines of the state except those which are consistent with the policy of this chapter and, after adoption or approval, as appropriate, the applicable guidelines, regulations or master program.

(2) No substantial development shall be undertaken on shorelines of the state without first obtaining a permit from the government entity having administrative jurisdiction under this chapter.

A permit shall be granted:

(a) From June 1, 1971 until such time as an applicable master program has become effective, only when the development proposed is consistent with: (i) The policy of RCW 90.58.020; and (ii) after their adoption, the guidelines and regulations of the department; and (iii) so far as can be ascertained, the master program being developed for the area;

(b) After adoption or approval, as appropriate, by the department of an applicable master program, only when the development proposed is consistent with the applicable master program and the provisions of chapter 90.58 RCW.

(3) Local government shall establish a program, consistent with rules adopted by the department, for the

administration and enforcement of the permit system provided in this section. The administration of the system so established shall be performed exclusively by local government.

(4) Local government shall require notification of the public of all applications for permits governed by any permit system established pursuant to subsection (3) of this section by ensuring that:

(a) A notice of such an application is published at least once a week on the same day of the week for two consecutive weeks in a legal newspaper of general circulation within the area in which the development is proposed; and

(b) Additional notice of such an application is given by at least one of the following methods:

(i) Mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the property upon which the substantial development is proposed;

(ii) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed; or

(iii) Any other manner deemed appropriate by local authorities to accomplish the objectives of reasonable notice to adjacent landowners and the public.

Such notices shall include a statement that any person desiring to submit written comments concerning an application, or desiring to receive a copy of the final order concerning an application as expeditiously as possible after the issuance of the order, may submit such comments or such requests for orders to the local government within thirty days of the last date the notice is to be published pursuant to subsection (a) of this subsection. Local government shall forward, in a timely manner following the issuance of an order, a copy of the order to each person who submits a request for such order.

If a hearing is to be held on an application, notices of such a hearing shall include a statement that any person may submit oral or written comments on an application at such hearing.

(5) Such system shall include provisions to assure that construction pursuant to a permit will not begin or be authorized until thirty days from the date the final order was filed as provided in subsection (6) of this section; or until all review proceedings are terminated if such proceedings were initiated within thirty days from the date of filing as defined in subsection (6) of this section except as follows:

(a) In the case of any permit issued to the state of Washington, department of highways, for the construction and modification of the SR 90 (I-90) bridges across Lake Washington, such construction may begin after thirty days from the date of filing;

(b) If a permit is granted by the local government and (i) the granting of the permit is appealed to the shorelines hearings board within thirty days of the date of filing, (ii) the hearings board approves the granting of the permit by the local government or approves a portion of the substantial development for which the local government issued the permit, and (iii) an appeal for judicial

review of the hearings board decision is filed pursuant to the provisions of chapter 34.04 RCW, the permittee may request, within ten days of the filing of the appeal with the court, a hearing before the court to determine whether construction may begin pursuant to the permit approved by the hearings board or to a revised permit issued pursuant to the order of the hearings board. If, at the conclusion of the hearing, the court finds that construction pursuant to such a permit would not involve a significant, irreversible damaging of the environment, the court may allow the permittee to begin such construction pursuant to the approved or revised permit as the court deems appropriate. The court may require the permittee to post bonds, in the name of the local government that issued the permit, sufficient to remove the substantial development or to restore the environment if the permit is ultimately disapproved by the courts, or to alter the substantial development if such alteration is ultimately ordered by the courts: *Provided*, That construction pursuant to a permit revised at the direction of the hearings board may begin only on that portion of the substantial development for which the local government had originally issued the permit and construction pursuant to such a revised permit on other portions of the substantial development may not begin until after all review proceedings are terminated. In such a hearing before the court, the burden of proving whether such construction may involve significant irreversible damage to the environment and demonstrating whether such construction would or would not be appropriate shall be on the appellant;

(c) If a permit is granted by the local government and the granting of the permit is appealed directly to the superior court for judicial review pursuant to the proviso in RCW 90.58.180(1) as now or hereafter amended, the permittee may request the court to remand the appeal to the shorelines hearings board, in which case the appeal shall be so remanded and construction pursuant to such a permit shall be governed by the provisions of subsection (b) of this subsection or may otherwise begin after review proceedings before the hearings board are terminated if judicial review is not thereafter requested pursuant to the provisions of chapter 34.04 RCW;

If a permittee begins construction pursuant to subsections (a), (b) or (c) of this subsection, such construction shall begin at the permittee's own risk. If, as a result of judicial review, the courts order the removal of any portion of the construction or the restoration of any portion of the environment involved or require the alteration of any portion of a substantial development constructed pursuant to a permit, the permittee shall be barred from recovering damages or costs involved in adhering to such requirements from the local government that granted the permit, the hearings board, or any appellant or intervener.

(6) Any ruling on an application for a permit under authority of this section, whether it be an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be filed with the department and the attorney general. With regard to a permit other than a permit governed by subsection (12) of this section,

"date of filing" as used herein shall mean the date of actual receipt by the department. With regard to a permit for a variance or a conditional use, "date of filing" shall mean the date a decision of the department rendered on the permit pursuant to subsection (12) of this section is transmitted by the department to the local government. The department shall notify in writing the local government and the applicant of the date of filing.

(7) Applicants for permits under this section shall have the burden of proving that a proposed substantial development is consistent with the criteria which must be met before a permit is granted. In any review of the granting or denial of an application for a permit as provided in RCW 90.58.180 (1) and (2) as now or hereafter amended, the person requesting the review shall have the burden of proof.

(8) Any permit may, after a hearing with adequate notice to the permittee and the public, be rescinded by the issuing authority upon the finding that a permittee has not complied with conditions of a permit. In the event the department is of the opinion that such non-compliance exists, the department shall provide written notice to the local government and the permittee. If the department is of the opinion that such noncompliance continues to exist thirty days after the date of the notice, and the local government has taken no action to rescind the permit, the department may petition the hearings board for a rescission of such permit upon written notice of such petition to the local government and the permittee: *Provided*, That the request by the department is made to the hearings board within fifteen days of the termination of the thirty day notice to the local government.

(9) The holder of a certification from the governor pursuant to chapter 80.50 RCW shall not be required to obtain a permit under this section.

(10) No permit shall be required for any development on shorelines of the state included within a preliminary or final plat approved by the applicable state agency or local government prior to April 1, 1971, if:

(a) The final plat was approved after April 13, 1961, or the preliminary plat was approved after April 30, 1969; and

(b) The development is completed within two years after the effective date of this chapter.

(11) The applicable state agency or local government is authorized to approve a final plat with respect to shorelines of the state included within a preliminary plat approved after April 30, 1969, and prior to April 1, 1971: *Provided*, That any substantial development within the platted shorelines of the state is authorized by a permit granted pursuant to this section, or does not require a permit as provided in subsection (10) of this section, or does not require a permit because of substantial development occurred prior to June 1, 1971.

(12) Any permit for a variance or a conditional use by local government under approved master programs must be submitted to the department for its approval or disapproval. [1977 1st ex.s. c 358 § 1; 1975-'76 2nd ex.s. c 51 § 1; 1975 1st ex.s. c 182 § 3; 1973 2nd ex.s. c 19 § 1; 1971 ex.s. c 286 § 14.]

Chapter 90.62
ENVIRONMENTAL COORDINATION
PROCEDURES ACT

Sections

90.62.010	Legislative finding—Purposes.
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90.62.040	Master application for proposed project—Contents—Notice to state agencies—Agency permit forms sent applicant—Return of forms to department with local government certification.
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90.62.060	Public hearing—Procedure—Agency participation—Final decisions.
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90.62.090	Application, scope, construction of chapter—Continuation of fee schedules—Collection.
90.62.100	Compliance with local zoning ordinances and plans—Scope—Certification—Other laws not affected.
90.62.130	Modifications to master application—Authorized—Rules to set forth guidelines, limitations.
90.62.908	Severability—1977 c 54.

90.62.010 Legislative finding—Purposes. (1) It is the sense of the legislature that the heavy burdens placed upon persons proposing to undertake certain types of projects in this state through requirements to obtain numerous permits and related documents from various state and local agencies are undesirable and should be alleviated. The legislature further finds that present methods for obtaining public views in relation to applications to state and local agencies pertaining to these projects are cumbersome and place undue hardships on members of the public thereby thwarting the public's ability to present such views.

(2) The purposes of this chapter are to:

(a) Provide for an optional procedure to assist those who, in the course of satisfying the requirements of state and local government prior to undertaking a project which contemplates the use of the state's air, land, or water resources, must obtain a number of permits, by establishing a mechanism in state government which will coordinate administrative decision-making procedures, and related quasi judicial and judicial review, pertaining to such documents.

(b) Provide to members of the public a better and easier opportunity to present their views comprehensively on proposed uses of natural resource and related environmental matters prior to the making of decisions on such uses by state or local agencies.

(c) Provide to members of the public who desire to carry out the aforementioned projects within the state of Washington a greater degree of certainty in terms of permit requirements of state and local government.

(d) Provide better coordination and understanding between state and local agencies in the administration of the various programs relating to air, water, and land resources.

(e) Establish the opportunity for members of the public to obtain information pertaining to requirements of federal and state law which must be satisfied prior to

undertaking a project in the state. [1977 c 54 § 1; 1973 1st ex.s. c 185 § 1.]

90.62.020 Definitions. For purposes of this chapter the following words mean, unless the context clearly dictates otherwise:

(1) "Board" means the pollution control hearings board.

(2) "Department" means the department of ecology.

(3) "Local government" means a county, city or town.

(4) "Permit" means any license, permit, certificate, certification, approval, compliance schedule, or other similar document pertaining to any regulatory or management program related to the protection, conservation, or use of, or interference with, the natural resources of land, air or water in the state, which is required to be obtained from a state agency prior to constructing or operating a project in the state of Washington. Permit shall also mean a substantial development permit under RCW 90.58.140 and any permit, required by a local government for a project, that the local government has chosen to process pursuant to RCW 90.62.100(2) as now or hereafter amended. Nothing in this chapter shall relate to a permit issued by the department of labor and industries or by the utilities and transportation commission; nor to the granting of proprietary interests in publicly owned property such as sales, leases, easements, use permits and licenses.

(5) "Person" means any individual, municipal, public, or private corporation, or other entity however denominated, including a state agency and county.

(6) "Processing" and "processing of applications" mean the entire process to be followed in relation to the making of decisions on an application for a permit and review thereof as provided in RCW 90.62.040 through 90.62.080.

(7) "Project" means any new activity or any expansion of or addition to an existing activity, fixed in location, for which permits are required prior to construction or operation from (a) two or more state agencies as defined in subsection (8) of this section, or (b) one or more state agencies and a local government, if the local government is processing permits or requests for variances or rezones pursuant to the procedure established by the provisions of this chapter, as provided by RCW 90.62.100(2) as now or hereafter amended. Such construction or operation may include, but need not be limited to, industrial and commercial operations and developments. For the purpose of part (a) of this subsection, the submission of plans and specifications for a hydraulic project or other work to the departments of fisheries and game pursuant to RCW 75.20.100 shall be considered to be an application for a permit required by one state agency.

(8) "State agency" means any state department, commission, board or other agency of the state however titled. For the limited purposes of this chapter only "state agency" shall also mean (a) any local or regional air pollution control authority established under chapter 70.94 RCW and (b) any local government when said government is acting in its capacity as a decision maker

on an application for a permit pursuant to RCW 90.58-.140. [1977 c 54 § 2; 1973 1st ex.s. c 185 § 2.]

90.62.040 Master application for proposed project—Contents—Notice to state agencies—Agency permit forms sent applicant—Return of forms to department with local government certification. (1) Any person proposing a project may submit a master application to the department requesting the issuance of all permits necessary prior to the construction and operation of the project in the state of Washington. The master application shall be on a form furnished by the department and shall contain precise information as to the location of the project, and shall describe the nature of the project including any discharges of wastes proposed therefrom and any uses of, or interferences with, natural resources contemplated.

(2) Upon receipt of a properly completed master application, the department shall immediately notify in writing each state agency having a possible interest in the master application arising from requirements pertaining to a permit program under its jurisdiction. The notification from the department shall be accompanied by a copy of the master application together with the date by which the agency shall respond to the notice. Each notified agency shall respond in writing to the department within the specified date, not exceeding fifteen days from receipt, as determined by the department, advising (a)(i) whether the agency does or does not have an interest in the master application, and (a)(ii) if the response to (a)(i) of this subsection is affirmative, the permit program or programs under the agency's jurisdiction to which the project described in the master application is pertinent, and whether, in relation to the master application, a public hearing as provided in RCW 90.62.050 and 90.62.060 would or would not be of value taking into consideration the overall public interest. Each notified state agency which (b)(i) responds within the specified date that it does not have an interest in the master application or (b)(ii) does not respond as required above within the specified date, shall not subsequently require a permit of the applicant for the project described in the master application; provided the bar to requiring a permit subsequently shall not be applicable if the master application provided the notified agency contained false, misleading, or deceptive information, or other information, or lack thereof, which would reasonably lead an agency to misjudge its interest in a master application.

(3) The department shall send application forms relating to permit programs identified in affirmative responses under subsection (2) of this section to the applicant within five working days of the date specified by the department pursuant to subsection (2) of this section with a direction to complete and return them to the department within a reasonable time as specified by the department.

(4) When such applications, properly completed, have been returned to the department, each of the applications shall be transmitted to the appropriate state agency for the performance of its responsibilities of decision

making in accordance with the procedures of this chapter. No such completed applications shall be accepted by the department for transmittal unless they are accompanied by (a) the certification of local government provided for in RCW 90.62.100 as now or hereafter amended, or (b) a statement of the local government indicating that such certification would require rezoning, the granting of a variance or issuance of a conditional use permit and the local government has chosen to utilize the procedures provided by this chapter to process the request for the rezoning or variance or the application for the conditional use permit as provided by RCW 90.62.100(2) as now or hereafter amended.

(5) For the purpose of establishing priority dates upon water right permits and certificates issued pursuant to rulings on applications under chapters 90.03 and 90.44 RCW and processed under this chapter, the priority date shall be the date of submitting the master application to the department or the county office as provided in RCW 90.62.120(2). [1977 c 54 § 3; 1973 1st ex.s. c 185 § 4.]

90.62.050 Notice of proposed project—Publication—Contents—Public hearing. (1) The department, within a reasonable time after transmittal under RCW 90.62.040(4), shall cause a notice to be published at the applicant's expense once each week on the same day of the week for two consecutive weeks in a newspaper of general circulation within each county in which the project is proposed to be constructed or operated. The notice shall describe the nature of the master application including, with reasonable specificity, the project proposed, its location, the various permits applied for, and the agency having jurisdiction over each such permit. Except as provided in RCW 90.62.050(2), the notice shall also state the time and place of the public hearing (to be held not less than fifteen days after the date of last publication of the notice). It shall further state that a copy of the master application and a copy of all permit applications for the project are available for public inspection in the office for environmental permit applications of each county in which the project is proposed to be constructed or operated, as well as at the Olympia office and appropriate regional office of the department, together with such other locations as the department may designate.

(2) If the responses received by the department from state agencies under RCW 90.62.040(2) unanimously state the position that a public hearing in relation to a master application would not be of value taking into consideration the overall public interest, and the department, after a careful evaluation, taking into consideration all interests involved, including the opportunities for members of the public to present views, concludes likewise, the provisions of subsection (1) of this section pertaining to the time and place of a public hearing shall not be included in the notice. In place thereof the notice shall state that members of the public may present relevant views and supporting materials in writing to the department in relation to any of the permits applied for within twenty days after the last date of publication of the notice in a newspaper. [1977 c 54 § 4; 1973 1st ex.s. c 185 § 5.]

90.62.060 Public hearing—Procedure—Agency participation—Final decisions. (1) Except as provided in RCW 90.62.050(2), prior to any final decision on any permit applications relating to a project subject to the procedures of this chapter, a public hearing shall be held in the county in which all or a major part of the proposed project is to be constructed or operated, such hearing to be held pursuant to notice made under RCW 90.62.050(1). At any such hearing the applicant may submit any relevant information and material in support of his applications, and members of the public may present relevant views and supporting materials in relation to any or all of the applications being considered.

(2) Each agency having an application for a permit before it as described in the notice in RCW 90.62.050(1) shall be represented at the public hearing by its chief administrative officer or his designee. The director of the department, or a hearing officer duly appointed by him, shall chair the hearing; however, the representative of any agency (other than the department) within whose jurisdiction a specific application lies shall conduct the portion of the hearing pertaining to submission of information, views, and supporting materials which are relevant to that application. The chairman may, when appropriate, continue a hearing from time to time and place to place. The hearing shall be recorded in any manner suitable for transcription as determined by the department.

(3) No provisions of chapter 34.04 RCW shall apply to the hearing provided for by this section. Said hearing shall be conducted for the purpose of obtaining information for the assistance of the agencies but shall not be considered a trial or adversary proceeding.

(4) Upon completion of the public hearing the chairman, after consultation with the agency representatives, shall establish the date by which all agencies shall forward their final decisions on applications before them to the department: *Provided*, That this date may be extended by the chairman for reasonable cause. Every final decision shall set forth the basis for the conclusion reached together with a final order denying the application for a permit or granting it, subject to such conditions of approval as the deciding agency may have power to impose.

(5) In situations where a notice is provided pursuant to RCW 90.62.050(2) and no public hearing is conducted, the department shall, after twenty days after the last notice publication in the newspaper, submit a copy of all views and supporting material received by it to each agency having an application for a permit before it as described in the notice. Concurrently therewith, the department shall notify each agency, in writing, of the date by which final decisions on applications shall be forwarded to the department: *Provided*, That this date may be extended by the department for reasonable cause. Each such final decision shall consist of the same contents as provided for final decisions in RCW 90.62.060(4).

(6) As soon as all final decisions are received by the department from the various participating agencies, as

provided in RCW 90.62.060(4) and (5), the department shall incorporate them, without modification, into one document and transmit the same to the applicant either personally or by registered mail.

(7) Each agency having jurisdiction to approve or deny an application for a permit shall have continuing power as vested in it prior to enactment of this chapter to make such determinations. Nothing in RCW 90.62-.030 through 90.62.060 shall lessen or reduce such powers, and such sections shall modify only the procedures to be followed in the carrying out of such powers.

(8) An agency may in the performance of its responsibilities of decision making under this chapter, request or receive additional information from an applicant and others prior or subsequent to a public hearing as necessary to the performance thereof. [1977 c 54 § 5; 1973 1st ex.s. c 185 § 6.]

90.62.080 Board review of agency final decision, procedure—Appeal of local government decision—

Judicial review. (1) Any person aggrieved by any final decision of a state agency, as defined in RCW 90.62.020(8) as now or hereafter amended, contained in the document issued by the department pursuant to RCW 90.62.060(6) may obtain review thereof by filing a request, with the board, within thirty days of the transmittal under RCW 90.62.060(6) by the department of ecology of the document, for all final decisions other than a final decision relating to the granting or denial of a substantial development permit pursuant to RCW 90.58.140 in which case the filing of such request shall be with the shorelines hearings board. The board shall review all final decisions other than a final decision on a substantial development permit which shall be reviewed by the shorelines hearings board. In the event a request for review includes a final decision involving a substantial development permit and other permits, there shall be single staged hearing of the permits by the boards. The board shall be authorized to adopt rules and regulations implementing such staged hearings and the filing of requests so as to eliminate all unnecessary duplication.

(2) Any hearing held pursuant to this section by the pollution control hearings board or the shorelines hearings board or by the boards jointly shall be a de novo quasi judicial hearing and shall be conducted pursuant to the procedures provided in chapter 34.04 RCW.

(3) The board or boards shall make written findings of fact based upon a preponderance of the evidence and shall prepare written conclusions of law and an order, which order may affirm with or without condition, remand for further proceedings, or reverse the appealed decision in accordance with the findings and conclusions.

(4) Judicial review of decisions of the boards shall be controlled by RCW 43.21B.180 through 43.21B.200 except as they relate to decisions pertaining to substantial development permits under RCW 90.58.140 which shall be controlled by RCW 90.58.180.

(5) (a) Any person aggrieved by and desiring to appeal any final decision of a local government contained in the document issued by the department pursuant to RCW 90.62.060(6) as now or hereafter amended shall obtain review thereof in the same manner as would

apply had the local government not utilized the procedures provided by this chapter.

(b) The provisions of subsection (5)(a) of this section shall not apply to a decision concerning any permit required by a "state agency" as that term is defined in RCW 90.62.020(8) as now or hereafter amended. [1977 c 54 § 6; 1973 1st ex.s. c 185 § 8.]

90.62.090 Application, scope, construction of chapter—Continuation of fee schedules—Collection. (1) Notwithstanding any other statutes relating to the processing of application for permits, the procedures, including timing requirements and approval requirements related thereto, set forth in this chapter shall be exclusive in relation to applications for permits filed pursuant to RCW 90.62.040. The procedures of this chapter shall be in lieu of any procedures otherwise provided by statute, existing or hereafter enacted, to be followed by an agency in ruling upon an application for a permit for a project under this chapter.

(2) The procedures of this chapter are applicable only to projects as defined in RCW 90.62.020(7) and only through the completion of final decisions under RCW 90.62.060 and of review proceedings of RCW 90.62.080 and any ancillary proceedings. This chapter shall have no applicability to any applications for permit renewals, amendments, extensions, or other similar documents, or for replacing permits which are required subsequent to the completion of the decisions and proceedings under RCW 90.62.060 and 90.62.080 and any ancillary proceedings. For purposes of this section "ancillary proceedings" shall mean all proceedings, quasi judicial and judicial, held pursuant to any order of remand or similar order by the board or a court in relation to a final decision of an agency made hereunder and held in response to the order of remand or similar order.

(3) Fee schedules previously and expressly established or authorized by statute in relation to any application for a permit shall continue to be applicable even though processed under this chapter. The department shall collect such fees and forward them to the appropriate agency. [1977 c 54 § 7; 1973 1st ex.s. c 185 § 9.]

90.62.100 Compliance with local zoning ordinances and plans—Scope—Certification—Other laws not affected. (1) No completed applications returned to the department of ecology pursuant to RCW 90.62.040(3) as now or as hereafter amended shall be accepted by the department for transmittal pursuant to RCW 90.62.040 as now or hereafter amended unless they are accompanied by a certification from the pertinent local government that the project is in compliance with all zoning ordinances, and associated comprehensive plans, administered by said local government relating to the location of the project or are accompanied by the statement described in RCW 90.62.040(4)(b) as now or hereafter amended: *Provided*, That if the local government has no such ordinances or plans the certification from local government shall so state and issue. For purposes of this section master programs of chapter 90.58 RCW are not zoning ordinances administered by local government. Local governments are authorized to accept applications

for certifications as provided in this section and are directed to rule upon the same expeditiously to insure the purposes of this chapter are accomplished fully. Upon certification, the local government may not change such zoning ordinances so as to affect the proposed project until the procedures of this chapter, including any board or court reviews, are completed. The provisions of the state environmental policy act relating to the preparation of detailed impact statements shall not be applicable to the action approving or denying certifications authorized in this section.

(2) (a) Upon receiving an application for certification for a project pursuant to subsection (1) of this section, the local government may, at its discretion, choose to process, pursuant to the procedures provided by this chapter, requests for variances or rezones or applications for conditional use permits or any other permits or any combination thereof that may be required by the local government for the project described on a master application. The procedures established by this chapter shall satisfy the procedural requirements for any requests or applications so processed.

(b) The provisions of subsection (2)(a) of this section shall not apply to any permit required by a "state agency" as that term is defined in RCW 90.62.020(8) as now or hereafter amended.

(3) Nothing in this chapter shall modify in any manner whatsoever the applicability or inapplicability of any land use regulation statutes or local zoning ordinances to lands of any state agency.

(4) Approval of an application for certification as provided in this section shall not eliminate any requirements of the Shoreline Management Act of 1971 or any other statutes administered by a local government. A ruling by local government denying an application for certification shall not be appealable under this chapter: *Provided*, That the denial of an application for certification pursuant to subsection (1) of this section shall not preclude the applicant from filing a permit application under any other available statute or procedure. [1977 c 54 § 8; 1973 1st ex.s. c 185 § 10.]

90.62.130 Modifications to master application—Authorized—Rules to set forth guidelines, limitations. It is anticipated that in processing permits as provided by this chapter the participating agencies may identify modifications to the project described in a master application, and subsequently completed individual applications submitted pursuant to RCW 90.62.040 as now or hereafter amended, which modifications would be necessary to satisfy the permit requirements of all of the participating agencies. The department of ecology shall, by rules and regulations adopted pursuant to chapter 34.04 RCW, establish guidelines for determining the extent to which such modifications can be approved under the original application without the applicant's having to resubmit a master application. Such guidelines shall require, among other provisions, that an applicant resubmit a master application if the modifications proposed by the participating agencies to the applicant's proposed project would have required one or more of the participating agencies to require the applicant to submit

a new application reflecting such modifications if the application for the permit had not been submitted under this chapter. [1977 c 54 § 9.]

90.62.908 Severability—1977 c 54. If any provision of this 1977 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. [1977 c 54 § 10.]

Chapter 90.66 FAMILY FARM WATER ACT

Chapter	
90.66.010	Short title.
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90.66.030	Public policy enunciated—Maximum benefit from use of public waters—Irrigation.
90.66.040	Definitions.
90.66.050	Classes of permits for withdrawal of public waters for irrigation purposes—Conditions—Requirements.
90.66.060	Withdrawal of water under family farm permit—Conditioned upon complying with definition of family farm—Suspension of permit, procedures, time.
90.66.070	Transfer of property entitled to water under permit—Rights—Requirements.
90.66.080	Rules and regulations—Decisions, review.
90.66.900	Liberal construction—Initiative Measure No. 59.
90.66.910	Severability—Initiative Measure No. 59.

90.66.010 Short title. This chapter shall be known and may be cited as the "Family Farm Water Act". [Initiative Measure No. 59 § 1 (Approved November 8, 1977).]

90.66.020 Prior existing rights to withdraw and use public waters not affected. Nothing in this chapter shall affect any right to withdraw and use public waters if such rights were in effect prior to *the effective date of the act, and nothing herein shall modify the priority of any such existing right. [Initiative Measure No. 59 § 2 (Approved November 8, 1977).]

***Reviser's note:** "the effective date of the act" [Initiative Measure No. 59], consisting of RCW 90.66.010 through 90.66.080, 90.66.900, and 90.66.910, is "thirty days after the election at which it is approved" as mandated by Article II, section 1(d) of the Washington Constitution. Initiative Measure No. 59 was approved by the voters at the election November 8, 1977, and was so certified by the governor on December 8, 1977.

90.66.030 Public policy enunciated—Maximum benefit from use of public waters—Irrigation. The people of the state of Washington recognize that it is in the public interest to conserve and use wisely the public surface and ground waters of the state in a manner that will assure the maximum benefit to the greatest possible number of its citizens. The maximum benefit to the greatest number of citizens through the use of water for the irrigation of agricultural lands will result from providing for the use of such water on family farms. To assure that future permits issued for the use of public waters for irrigation of agricultural lands will be made

on the basis of deriving such maximum benefits, in addition to any other requirements in the law, all permits for the withdrawal of public waters for the purpose of irrigating agricultural lands after *the effective date of this act shall be issued in accord with the provisions of this chapter. [Initiative Measure No. 59 § 3 (Approved November 8, 1977).]

***Reviser's note:** "the effective date of this act", see note following RCW 90.66.020.

90.66.040 Definitions. For the purposes of this chapter, the following definitions shall be applicable:

(1) "Family farm" means a geographic area including not more than two thousand acres of irrigated agricultural lands, whether contiguous or noncontiguous, the controlling interest in which is held by a person having a controlling interest in no more than two thousand acres of irrigated agricultural lands in the state of Washington which are irrigated under rights acquired after *the effective date of this act.

(2) "Person" means any individual, corporation, partnership, limited partnership, organization, or other entity whatsoever, whether public or private. The term "person" shall include as one person all corporate or partnership entities with a common ownership of more than one-half of the assets of each of any number of such entities.

(3) "Controlling interest" means a property interest that can be transferred to another person, the percentage interest so transferred being sufficient to effect a change in control of the landlord's rights and benefits. Ownership of property held in trust shall not be deemed a controlling interest where no part of the trust has been established through expenditure or assignment of assets of the beneficiary of the trust and where the rights of the family farm permit which is a part of the trust cannot be transferred to another by the beneficiary of the trust under terms of the trust. Each trust of a separate donor origin shall be treated as a separate entity and the administration of property under trust shall not represent a controlling interest on the part of the trust officer.

(4) "Department" means the department of ecology of the state of Washington.

(5) "Application", "permit" and "public waters" shall have the meanings attributed to these terms in chapters 90.03 and 90.44 RCW.

(6) "Public water entity" means any public or governmental entity with authority to administer and operate a system to supply water for irrigation of agricultural lands. [Initiative Measure No. 59 § 4 (Approved November 8, 1977).]

***Reviser's note:** "the effective date of this act", see note following RCW 90.66.020.

90.66.050 Classes of permits for withdrawal of public waters for irrigation purposes—Conditions—Requirements. After *the effective date of this act, all permits issued for the withdrawal of public waters for the purpose of irrigating agricultural lands shall be classified as follows and issued with the conditions set forth in this chapter:

(1) "Family farm permits". Such permits shall limit the use of water withdrawn for irrigation of agricultural lands to land qualifying as a family farm.

(2) "Family farm development permits". Such permits may be issued to persons without any limit on the number of acres to be irrigated during a specified period of time permitted for the development of such land into family farms and the transfer of the controlling interest of such irrigated lands to persons qualifying for family farm permits. The initial period of time allowed for development and transfer of such lands to family farm status shall not exceed ten years. Such time limit may be extended by the department for not to exceed an additional ten years upon a showing to the department that an additional period of time is needed for orderly development and transfer of controlling interests to persons who can qualify for family farm permits.

(3) "Publicly owned land permits". Such permits shall be issued only to governmental entities permitting the irrigation of publicly owned lands.

(4) "Public water entity permits". Such permits may be issued to public water entities under provisions requiring such public water entity, with respect to delivery of water for use in the irrigation of agricultural lands, to make water deliveries under the same provisions as would apply if separate permits were issued for persons eligible for family farm permits, permits to develop family farms, or for the irrigation of publicly owned land: *Provided, however*, That such provisions shall not apply with respect to water deliveries on federally authorized reclamation projects if such federally authorized projects provide for acreage limitations in water delivery contracts. [Initiative Measure No. 59 § 5 (Approved November 8, 1977).]

*Reviser's note: "the effective date of this act", see note following RCW 90.66.020.

90.66.060 Withdrawal of water under family farm permit—Conditioned upon complying with definition of family farm—Suspension of permit, procedures, time.

(1) The right to withdraw water for use for the irrigation of agricultural lands under authority of a family farm permit shall have no time limit but shall be conditioned upon the land being irrigated complying with the definition of a family farm as defined at the time the permit is issued: *Provided, however*, That if the acquisition by any person of land and water rights by gift, devise, bequest, or by way of bona fide satisfaction of a debt, would otherwise cause land being irrigated pursuant to a family farm permit to lose its status as a family farm, such acquisition shall be deemed to have no effect upon the status of family farm water permits pertaining to land held or acquired by the person acquiring such land and water rights if all lands held or acquired are again in compliance with the definition of a family farm within five years from the date of such acquisition.

(2) If the department determines that water is being withdrawn under a family farm permit for use on land not in conformity with the definition of a family farm, the department shall notify the holder of such family farm permit by personal service of such fact and the permit shall be suspended two years from the date of

receipt of notice unless the person having a controlling interest in said land satisfies the department that such land is again in conformity with the definition of a family farm. The department may, upon a showing of good cause and reasonable effort to attain compliance on the part of the person having the controlling interest in such land, extend the two year period prior to suspension. If conformity is not achieved prior to five years from the date of notice the rights of withdrawal shall be canceled. [Initiative Measure No. 59 § 6 (Approved November 8, 1977).]

90.66.070 Transfer of property entitled to water under permit—Rights—Requirements. (1) At any time that the holder of a family farm development permit or a publicly owned land permit shall transfer the controlling interest of all or any portion of the land entitled to water under such permit to a person who can qualify to receive water for irrigation of such land under a family farm permit, the department shall, upon request, issue a family farm permit to such person under the same conditions as would have been applicable if such request had been made at the time of the granting of the original family farm development permit. If the permit under which water is available is held by a public water entity prior to the transfer of the controlling interest to a person who qualifies for a family farm permit, such entity shall continue delivery of water to such land without any restriction on the length of time of delivery not applicable generally to all its water customers.

(2) The issuance of a family farm permit secured through the acquisition of land and water rights from the holder of a family farm development permit, or from the holder of a publicly owned land permit, where water delivery prior to the transfer is from a public water entity, may be conditioned upon the holder of the family farm permit issued continuing to receive water through the facilities of the public water entity. [Initiative Measure No. 59 § 7 (Approved November 8, 1977).]

90.66.080 Rules and regulations—Decisions, review. The department is hereby empowered to promulgate such rules as may be necessary to carry out the provisions of this chapter. Decisions of the department, other than rule making, shall be subject to review in accordance with chapter 43.21B RCW. [Initiative Measure No. 59 § 8 (Approved November 8, 1977).]

Pollution control hearings board of the state: Chapter 43.21B RCW.

90.66.900 Liberal construction—Initiative Measure No. 59. This chapter is exempted from the rule of strict construction and it shall be liberally construed to give full effect to the objectives and purposes for which it was enacted. [Initiative Measure No. 59 § 9 (Approved November 8, 1977).]

90.66.910 Severability—Initiative Measure No. 59. If any provision of this act, or its application to any person, organization, or circumstance is held invalid or unconstitutional, the remainder of the act, or the application of the provision to other persons, organizations, or

circumstances is not affected. [Initiative Measure No. 59 § 10 (Approved November 8, 1977).]

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Chapter 91.12 CANAL COMMISSION

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91.12.020 through 91.12.040 Repealed.
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91.12.010 Recodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

91.12.020 through 91.12.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

91.12.050 through 91.12.060 Recodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

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VOCATIONAL EDUCATION

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